

104TH CONGRESS
2D SESSION

H. R. 3717

To reform the postal laws of the United States.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 1996

Mr. McHUGH (for himself and Mr. CLINGER) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reform the postal laws of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Postal Reform Act of 1996”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ORGANIZATION

Sec. 101. Redesignations relating to the Governors and the Board of
Governors.

- Sec. 102. Redesignations relating to the Postmaster General and the Deputy Postmaster General.
- Sec. 103. Change in salary of Directors.
- Sec. 104. Amendments relating to establishing an Office of Inspector General within the United States Postal Service and certain other matters.
- Sec. 105. Clarification relating to execution of amendments.

TITLE II—GENERAL AUTHORITY

- Sec. 201. Employment of postal police officers.
- Sec. 202. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.

TITLE III—PRESIDENTIAL POSTAL EMPLOYEE-MANAGEMENT COMMISSION

- Sec. 301. Presidential Postal Employee-Management Commission.

TITLE IV—FINANCE

- Sec. 401. End of Treasury control of Postal Service banking.
- Sec. 402. Postal Service investments.
- Sec. 403. Exclusion from Federal Financing Bank.
- Sec. 404. Elimination of Treasury preemption of borrowing by the Postal Service.
- Sec. 405. Elimination of Postal Service “put” on Treasury.

TITLE V—BUDGET AND APPROPRIATIONS PROCESS

- Sec. 501. Repeal of provision relating to transitional appropriations.
- Sec. 502. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.
- Sec. 503. Repeal of authorizations of appropriations for public service costs, revenue forgone, and certain compensatory appropriations.
- Sec. 504. Congressional oversight preserved.

TITLE VI—MISCELLANEOUS PROVISIONS RELATING TO POSTAL RATES, CLASSES, AND SERVICES

- Sec. 601. Change-of-address order involving a commercial mail receiving agency.
- Sec. 602. Reduced rates for certain nonprofit organizations.
- Sec. 603. Powers of the Postal Rate Commission.
- Sec. 604. Volume discounts.

TITLE VII—PROVISIONS RELATING TO THE TRANSPORTATION, CARRIAGE, OR DELIVERY OF MAIL

- Sec. 701. Obsolete provisions.
- Sec. 702. Expanded contracting authority.
- Sec. 703. Private carriage of letters.
- Sec. 704. Mailbox demonstration project.

TITLE VIII—DIRECT APPEAL OF DECISIONS OF THE MERIT SYSTEMS PROTECTION BOARD

Sec. 801. Direct appeal of decisions of the Merit Systems Protection Board.

TITLE IX—LAW ENFORCEMENT

Subtitle A—Amendments to Title 39, United States Code

Sec. 901. Make Federal assault statutes applicable to postal contract employees.

Sec. 902. Sexually oriented advertising.

Sec. 903. Allow Postal Service to retain asset forfeiture recoveries.

Sec. 904. Hazardous matter.

Subtitle B—Other Provisions

Sec. 911. Stalking Federal officers and employees.

Sec. 912. Nonmailability of controlled substances.

Sec. 913. Enhanced penalties.

Sec. 914. Postal burglary provisions.

Sec. 915. Mail, money, or other property of the United States.

TITLE X—NEW SYSTEM RELATING TO POSTAL RATES, CLASSES, AND SERVICES

Sec. 1001. Establishment.

Sec. 1002. Termination of ratemaking authority under chapter 36 and related matters.

1 **TITLE I—ORGANIZATION**

2 **SEC. 101. REDESIGNATIONS RELATING TO THE GOVERNORS**

3 **AND THE BOARD OF GOVERNORS.**

4 (a) REFERENCES IN TITLE 39.—Title 39, United
5 States Code, is amended—

6 (1) by striking “Board of Governors” each
7 place it appears and inserting “Board of Directors”;

8 (2) by striking “Governors” each place it ap-
9 pears (except wherever it appears in “Board of Gov-
10 ernors”) and inserting “Directors”; and

11 (3) by striking “Governor” each place it ap-
12 pears and inserting “Director”.

13 (b) REFERENCES OUTSIDE TITLE 39.—Any ref-
14 erence in any provision of law outside title 39, United

1 States Code, enacted before the date of the enactment of
2 this Act—

3 (1) to the Board of Governors, within the
4 meaning of section 102(2) of title 39, United States
5 Code, as in effect before the date of the enactment
6 of this Act, shall be treated as referring to the
7 Board of Directors, within the meaning of such sec-
8 tion 102(2), as amended by subsection (a); or

9 (2) to any of the Governors, within the meaning
10 of section 102(3) of title 39, United States Code, as
11 in effect before the date of the enactment of this
12 Act, shall be treated as referring to the correspond-
13 ing Director or Directors, within the meaning of
14 such section 102(3), as amended by subsection (a).

15 **SEC. 102. REDESIGNATIONS RELATING TO THE POST-**
16 **MASTER GENERAL AND THE DEPUTY POST-**
17 **MASTER GENERAL.**

18 (a) IN GENERAL.—(1) Section 202(c) of title 39,
19 United States Code, is amended by striking “Postmaster
20 General” and inserting “Chief Executive Officer of the
21 United States Postal Service”.

22 (2) Section 202(d) of such title 39 is amended by
23 striking “Deputy Postmaster General” and inserting
24 “Deputy Chief Executive Officer of the United States
25 Postal Service”.

1 (3) Section 102 of such title 39 is amended by strik-
2 ing “and” at the end of paragraph (2), by striking the
3 period at the end of paragraph (3) and inserting a semi-
4 colon, and by adding after paragraph (3) the following:

5 “(4) ‘Chief Executive Officer’, unless the con-
6 text otherwise requires, means the Chief Executive
7 Officer of the United States Postal Service ap-
8 pointed under section 202(c); and

9 “(5) ‘Deputy Chief Executive Officer’, unless
10 the context otherwise requires, means the Deputy
11 Chief Executive Officer of the United States Postal
12 Service appointed under section 202(d).”.

13 (b) OTHER REFERENCES IN TITLE 39.—Title 39,
14 United States Code, is further amended—

15 (1) by striking “Postmaster General” each
16 place it appears (except wherever it appears in
17 “Deputy Postmaster General”) and inserting “Chief
18 Executive Officer”; and

19 (2) by striking “Deputy Postmaster General”
20 each place it appears and inserting “Deputy Chief
21 Executive Officer”.

22 (c) REFERENCES OUTSIDE TITLE 39.—Any ref-
23 erence in any provision of law outside title 39, United
24 States Code, enacted before the date of the enactment of
25 this Act—

1 (1) to the Postmaster General shall be treated
2 as referring to the Chief Executive Officer of the
3 United States Postal Service; and

4 (2) to the Deputy Postmaster General shall be
5 treated as referring to the Deputy Chief Executive
6 Officer of the United States Postal Service.

7 **SEC. 103. CHANGE IN SALARY OF DIRECTORS.**

8 (a) IN GENERAL.—Section 202(a) of title 39, United
9 States Code, is amended by striking “\$10,000 a year” and
10 inserting “\$30,000 a year.”.

11 (b) EFFECTIVE DATE.—Subsection (a) shall take ef-
12 fect at the beginning of the next applicable pay period be-
13 ginning after the date of the enactment of this Act.

14 **SEC. 104. AMENDMENTS RELATING TO ESTABLISHING AN**
15 **OFFICE OF INSPECTOR GENERAL WITHIN**
16 **THE UNITED STATES POSTAL SERVICE AND**
17 **CERTAIN OTHER MATTERS.**

18 (a) DEFINITIONS.—Section 11 of the Inspector Gen-
19 eral Act of 1978 (5 U.S.C. App.) is amended—

20 (1) in paragraph (1) by inserting “the Board of
21 Directors, United States Postal Service;” after “the
22 Attorney General;”; and

23 (2) in paragraph (2) by inserting “the United
24 States Postal Service;” after “Treasury;”.

1 (b) TRANSFER OF FUNCTIONS.—Paragraph (1) of
2 section 9(a) of the Inspector General Act of 1978 is
3 amended—

4 (1) in subparagraph (U) by striking “and”
5 after the semicolon; and

6 (2) by adding at the end the following:

7 “(X) of the United States Postal Service,
8 that portion of the Postal Inspection Service
9 which is engaged in internal audit activities or
10 program review activities; and”.

11 (c) SPECIAL PROVISIONS.—The Inspector General
12 Act of 1978 is amended by redesignating the first and sec-
13 ond sections 8G as sections 8H and 8I, respectively, and
14 by inserting after section 8F the following:

15 “SPECIAL PROVISIONS CONCERNING THE UNITED STATES
16 POSTAL SERVICE

17 “SEC. 8G. (a) In carrying out the duties and respon-
18 sibilities specified in this Act, the Inspector General of the
19 United States Postal Service shall have oversight respon-
20 sibility for all activities of the Postal Inspection Service,
21 including any internal investigation performed by the
22 Postal Inspection Service. The Chief Postal Inspector shall
23 promptly report to such Inspector General the significant
24 activities being carried out by the Postal Inspection Serv-
25 ice.

1 “(b) Notwithstanding paragraphs (7) and (8) of sec-
2 tion 6(a), the Inspector General of the United States Post-
3 al Service may select, appoint, and employ such officers
4 and employees as may be necessary for carrying out the
5 functions, powers, and duties of the Office of Inspector
6 General, and to obtain the temporary or intermittent serv-
7 ices of experts or consultants or an organization of experts
8 or consultants, subject to the applicable laws and regula-
9 tions that govern such selections, appointments, and em-
10 ployment, and the obtaining of such services, within the
11 United States Postal Service.”.

12 (d) OFFICE OF THE INSPECTOR GENERAL AS A SEP-
13 ARATE ITEM IN ANNUAL BUDGET AND OTHER REQUIRE-
14 MENTS.—

15 (1) SEPARATE ITEM IN ANNUAL BUDGET.—For
16 purposes of the fifth sentence of section 2009 of title
17 39, United States Code, the operations of the Office
18 of Inspector General of the United States Postal
19 Service shall be considered a major type of activity.

20 (2) PAY.—Section 5315 of title 5, United
21 States Code, is amended by adding at the end the
22 following:

23 “Inspector General, United States Postal Serv-
24 ice.”.

1 The amendment made by this paragraph shall apply
2 notwithstanding section 410 or any other provision
3 of title 39, United States Code.

4 (3) STRATEGIC PLANS.—

5 (A) OFFICE OF INSPECTOR GENERAL OF
6 THE UNITED STATES POSTAL SERVICE.—The
7 first Inspector General of the United States
8 Postal Service appointed pursuant to the
9 amendments made by this section shall prepare
10 a strategic plan addressing staffing require-
11 ments, general goals and objectives for major
12 functions and operations of the Office, and a
13 description of how goals and objectives of the
14 Office are to be achieved (including a descrip-
15 tion of operational processes, skills and tech-
16 nology, and the human, capital, information,
17 and other resources required to meet those
18 goals and objectives). Such plan shall be pre-
19 pared in time to be included with the annual
20 budget under section 2009 of title 39, United
21 States Code, next due to be submitted after the
22 end of the 6-month period beginning on the
23 date of appointment.

24 (B) POSTAL INSPECTION SERVICE.—The
25 Chief Postal Inspector shall, with respect to the

1 Postal Inspection Service, prepare a strategic
2 plan similar in content to that required under
3 subparagraph (A) with respect to the Office of
4 Inspector General of the United States Postal
5 Service. Such plan shall be prepared in time to
6 be included with the annual budget under sec-
7 tion 2009 of such title 39 next due to be sub-
8 mitted after the end of the 30-day period begin-
9 ning on the date of the enactment of this Act.

10 (4) COMPENSATION AND BENEFITS.—

11 (A) OFFICE OF INSPECTOR GENERAL OF
12 THE UNITED STATES POSTAL SERVICE.—Com-
13 pensation and benefits for all officers and em-
14 ployees serving in or under the Office of Inspec-
15 tor General of the United States Postal Service
16 shall be maintained on a standard of com-
17 parability to the compensation and benefits paid
18 for comparable levels of work in the Office of
19 Inspector General of other establishments
20 (within the meaning of section 11(2) of the In-
21 specter General Act of 1978).

22 (B) POSTAL INSPECTORS.—Compensation
23 and benefits for all Postal Inspectors shall be
24 maintained on a standard of comparability to
25 the compensation and benefits paid for com-

1 parable levels of work in the executive branch of
2 the Government outside of the United States
3 Postal Service. As used in this subparagraph,
4 the term “Postal Inspector” includes any agent
5 to whom any investigative powers are granted
6 under section 3061 of title 18, United States
7 Code.

8 (e) POSTAL RATE COMMISSION.—Section 8H of the
9 Inspector General Act of 1978 (as so redesignated by sub-
10 section (c)) is amended in subsection (a)(2) by inserting
11 “the Postal Rate Commission,” after “the Smithsonian
12 Institution,”.

13 (f) TECHNICAL AND CONFORMING AMENDMENTS.—

14 (1) RELATING TO TITLE 39, UNITED STATES
15 CODE.—(A) Section 410(b) of title 39, United States
16 Code, is amended—

17 (i) by striking “and” at the end of para-
18 graph (9); and

19 (ii) by amending paragraph (10) to read as
20 follows:

21 “(10) the Inspector General Act of 1978; and”.

22 (B)(i) Section 204 of such title 39 is amend-
23 ed—

24 (I) by amending the section heading to
25 read as follows:

1 **“§ 204. General Counsel; Judicial Officer; Chief Postal**
2 **Inspector”;**

3 (II) in the first sentence by striking “such
4 number of Assistant Postmasters General as
5 the Board shall consider appropriate, and a Ju-
6 dicial Officer.” and inserting “a Judicial Offi-
7 cer, and a Chief Postal Inspector.”;

8 (III) in the second sentence by striking
9 “and the Judicial Officer” and inserting “the
10 Judicial Officer, and the Chief Postal Inspec-
11 tor”; and

12 (IV) by adding at the end the following:
13 “The Chief Postal Inspector shall report to, and
14 be under the general supervision of, the Chief
15 Executive Officer. The Chief Executive Officer
16 shall promptly notify the Directors and both
17 Houses of Congress in writing if he or she re-
18 moves the Chief Postal Inspector or transfers
19 the Chief Postal Inspector to another position
20 or location within the Postal Service, and shall
21 include in any such notification the reasons for
22 the removal or transfer.”.

23 (ii) The table of sections for chapter 2 of such
24 title 39 is amended by striking the item relating to
25 section 204 and inserting the following:

“204. General Counsel; Judicial Officer; Chief Postal Inspector.”.

1 (2) RELATING TO THE INSPECTOR GENERAL
2 ACT OF 1978.—The Inspector General Act of 1978 is
3 amended—

4 (A) in section 8H (as so redesignated by
5 subsection (c))—

6 (i) in subsection (a)(2) by striking
7 “Tennessee Valley Authority,” and all that
8 follows through the semicolon and insert-
9 ing “Tennessee Valley Authority, and the
10 United States International Trade Com-
11 mission;”; and

12 (ii)(I) by striking subsection (f) and
13 redesignating subsections (g) and (h) as
14 subsections (f) and (g), respectively;

15 (II) in paragraphs (3) and (4) of sub-
16 section (a) by striking “(h)(1)” and insert-
17 ing “(g)(1)”; and

18 (III) in subsection (c) by striking
19 “Except as provided under subsection (f)
20 of this section, the” and inserting “The”;
21 and

22 (B) in section 8I (as so redesignated by
23 subsection (c)) by striking “or 8E” and insert-
24 ing “8E, or 8G”.

1 (3) RELATED PROVISION.—Section 304C(b)(1)
2 of the Federal Property and Administrative Services
3 Act (41 U.S.C. 254d(b)(1)) is amended by striking
4 “8G” and inserting “8H”.

5 (g) EFFECTIVE DATE; INTERIM SERVICE.—

6 (1) EFFECTIVE DATE.—This section and the
7 amendments made by this section shall take effect
8 upon the expiration of the 3-month period beginning
9 on the date of the enactment of this Act.

10 (2) INTERIM SERVICE.—The individual serving
11 as Inspector General of the United States Postal
12 Service on the day before this section takes effect
13 may continue to serve in that capacity until—

14 (A) an Inspector General of the United
15 States Postal Service has been appointed and
16 taken office pursuant to the amendments made
17 by this section; or

18 (B) if earlier, such individual ceases to be
19 the Chief Postal Inspector.

20 **SEC. 105. CLARIFICATION RELATING TO EXECUTION OF**
21 **AMENDMENTS.**

22 Any amendment made in this title to a term “each
23 place it appears” (or other words to the same effect) shall
24 be considered to include such term when it appears in a
25 table of contents or a section heading.

1 **TITLE II—GENERAL AUTHORITY**

2 **SEC. 201. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

3 Section 404 of title 39, United States Code, is
4 amended by adding at the end the following:

5 “(c)(1) The Postal Service may employ guards for all
6 buildings and areas owned or occupied by the Postal Serv-
7 ice or under the charge and control of the Postal Service,
8 and such guards shall have, with respect to such property,
9 the powers of special policemen provided by the first sec-
10 tion of the Act cited in paragraph (2), and, as to such
11 property, the Chief Executive Officer (or his designee)
12 may take any action that the Administrator of General
13 Services (or his designee) may take under section 2 or 3
14 of such Act, attaching thereto penalties under the author-
15 ity and within the limits provided in section 4 of such Act.

16 “(2) The Act cited in this paragraph is the Act of
17 June 1, 1948 (62 Stat. 281), commonly known as the Pro-
18 tection of Public Property Act.”.

19 **SEC. 202. DATE OF POSTMARK TO BE TREATED AS DATE OF**

20 **APPEAL IN CONNECTION WITH THE CLOSING**

21 **OR CONSOLIDATION OF POST OFFICES.**

22 (a) IN GENERAL.—Section 404(b) of title 39, United
23 States Code, is amended by adding at the end the follow-
24 ing:

1 “(6) For purposes of paragraph (5), any appeal re-
2 ceived by the Commission shall—

3 “(A) if sent to the Commission through the
4 mails, be considered to have been received on the
5 date of the Postal Service postmark on the envelope
6 or other cover in which such appeal is mailed; or

7 “(B) if lawfully delivered to the Commission by
8 an enterprise in the private sector of the economy
9 engaged in the delivery of mail, be considered to
10 have been received on the date determined based on
11 any appropriate documentation or other indicia (as
12 determined under regulations of the Commission).”.

13 (b) EFFECTIVE DATE.—This section and the amend-
14 ments made by this section shall apply with respect to any
15 determination to close or consolidate a post office which
16 is first made available, in accordance with paragraph (3)
17 of section 404(b) of title 39, United States Code, after
18 the end of the 3-month period beginning on the date of
19 the enactment of this Act.

1 **TITLE III—PRESIDENTIAL POST-**
2 **AL EMPLOYEE-MANAGEMENT**
3 **COMMISSION**

4 **SEC. 301. PRESIDENTIAL POSTAL EMPLOYEE-MANAGE-**
5 **MENT COMMISSION.**

6 (a) IN GENERAL.—Section 206 of title 39, United
7 States Code, is amended to read as follows:

8 **“§ 206. Presidential Postal Employee-Management**
9 **Commission**

10 “(a) There shall be established a Presidential Postal
11 Employee-Management Commission (hereinafter in this
12 section referred to as the ‘Commission’).

13 “(b)(1) The Commission shall study and make rec-
14 ommendations, in accordance with this section, on how
15 employee-management relations within the Postal Service
16 might be improved.

17 “(2) The Commission shall submit its recommenda-
18 tions—

19 “(A) to the President and the Congress, to the
20 extent that they involve any legislation; and

21 “(B) to the Postal Service, to the extent that
22 no legislation would be involved.

23 “(3) All recommendations shall be submitted in the
24 form of a written report, with the first set of reports due
25 within 18 months after the Commission is first con-

1 stituted, and the second and third sets of reports in 12-
2 month intervals thereafter.

3 “(4) The Commission shall terminate after submit-
4 ting its third set of reports.

5 “(c)(1) The Commission shall be composed of 7 mem-
6 bers, all of whom shall be appointed by the President. Of
7 the members—

8 “(A) 2 shall be appointed from among persons
9 who will represent the views of nonpostal labor orga-
10 nizations familiar with issues common to postal em-
11 ployees;

12 “(B) 2 shall be appointed from among persons
13 who will represent the views of the management of
14 private corporations similar in size to the Postal
15 Service;

16 “(C) 2 shall be appointed from among persons
17 well known in the fields of employee-management re-
18 lations, labor mediation, and collective bargaining;
19 and

20 “(D) 1 shall be appointed from among persons
21 well known in the fields described in subparagraph
22 (C), who are also generally viewed as not being pre-
23 disposed to the interests of employees or manage-
24 ment.

1 “(2) All members shall be appointed for the life of
2 the Commission.

3 “(3) Not more than 4 members may be of the same
4 political party.

5 “(4) Members shall serve without compensation, but
6 shall be reimbursed for necessary travel and reasonable
7 expenses incurred in attending meetings of the Commis-
8 sion.

9 “(5) The member appointed under paragraph (1)(D)
10 shall serve as chairman of the Commission.

11 “(d)(1) The Commission shall have a Director who
12 shall be appointed by the Commission and paid at a rate
13 not to exceed the rate of basic pay payable for level IV
14 of the Executive Schedule under section 5315 of title 5.

15 “(2) Upon request of the Commission, the Federal
16 Mediation and Conciliation Service may detail, on a reim-
17 bursable basis, any of the personnel of that agency to the
18 Commission to assist it in carrying out its duties under
19 this Act.

20 “(3) The Commission may not appoint or retain any
21 staff, except as provided in paragraph (1) or (2).”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 at the beginning of chapter 2 of title 39, United States
24 Code, is amended by striking the item relating to section
25 206 and inserting the following:

“206. Presidential Postal Employee-Management Commission.”.

TITLE IV—FINANCE

SEC. 401. END OF TREASURY CONTROL OF POSTAL SERVICE BANKING.

(a) IN GENERAL.—Subsection (d) of section 2003 of title 39, United States Code, is amended to read as follows:

“(d)(1) The Postal Service, in its sole discretion—

“(A) may provide that amounts which would otherwise be deposited in the revolving fund referred to in subsection (a) shall instead, to the extent considered appropriate by the Postal Service, be directly deposited in a Federal Reserve bank or a depository for public funds selected by the Postal Service; and

“(B) may provide for transfers of amounts under this subsection between or among—

“(i) Federal Reserve banks;

“(ii) depositories for public funds; and

“(iii) the revolving fund referred to in subsection (a).

“(2) The Postal Service, after consultation with the Secretary of the Treasury, shall prepare and may from time to time revise a master plan for the exercise of any authority under this subsection. Such plan shall address—

1 “(A) the criteria that shall be applied by the
2 Postal Service in deciding when and how any such
3 authority shall be exercised;

4 “(B) matters such as risk limitations, reserve
5 balances, allocation or distribution of monies, liquid-
6 ity requirements, and measures to safeguard against
7 losses;

8 “(C) the types of notification or consultation re-
9 quirements the Postal Service shall follow in connec-
10 tion with any exercise or proposed exercise of au-
11 thority under this subsection; and

12 “(D) procedures under which the Postal Service
13 shall, at least annually, render a full accounting as
14 to how any authority under this subsection has been
15 exercised during the period involved.

16 “(3)(A) Authority under this subsection may not be
17 exercised except in accordance with applicable provisions
18 of the master plan under paragraph (2).

19 “(B) The Postal Service shall submit its master plan
20 (and any revision thereof) to the President, the Secretary
21 of the Treasury, and each House of Congress at least 30
22 days before the date of its proposed implementation.”.

23 (b) SAVINGS PROVISION.—Until the authority under
24 section 2003(d) of title 39, United States Code, as amend-
25 ed by subsection (a), becomes available, the provisions of

1 such section 2003(d), as last in effect before being so
2 amended, shall be treated as if still in effect.

3 (c) STATUS OF MONIES UNCHANGED.—(1) Any
4 amounts invested under section 2003(c) of title 39, United
5 States Code, as amended by this title, shall be considered
6 to be part of the Postal Service Fund, to the same extent
7 as if they had been invested under section 2003(c) of such
8 title 39, as last in effect before the date of the enactment
9 of this Act.

10 (2) Any amounts deposited or transferred under sec-
11 tion 2003(d) of title 39, United States Code, as amended
12 by this title, shall be considered to be part of the Postal
13 Service Fund, to the same extent as if they had been
14 transferred under section 2003(d) of such title 39, as last
15 in effect before the date of the enactment of this Act.

16 **SEC. 402. POSTAL SERVICE INVESTMENTS.**

17 Section 2003(c) of title 39, United States Code, is
18 amended by striking all after “it may” and inserting the
19 following: “invest such amounts as it considers appro-
20 priate in obligations of, or obligations guaranteed by, the
21 Government of the United States.”.

22 **SEC. 403. EXCLUSION FROM FEDERAL FINANCING BANK.**

23 Section 2005(d) of title 39, United States Code, is
24 amended—

1 (1) in paragraph (4) by striking “and” after
2 the semicolon;

3 (2) in paragraph (5) by striking the period and
4 inserting “; and”; and

5 (3) by adding at the end the following:

6 “(6) notwithstanding the provisions of the Fed-
7 eral Financing Bank Act of 1973 or any other provi-
8 sion of law (except as may be specifically provided
9 by reference to this paragraph in any Act enacted
10 after this paragraph takes effect), not be eligible for
11 purchase by, or commitment to purchase by, or sale
12 or issuance to, the Federal Financing Bank.”.

13 **SEC. 404. ELIMINATION OF TREASURY PREEMPTION OF**
14 **BORROWING BY THE POSTAL SERVICE.**

15 Section 2006(a) of title 39, United States Code, is
16 amended by striking all after the first sentence.

17 **SEC. 405. ELIMINATION OF POSTAL SERVICE “PUT” ON**
18 **TREASURY.**

19 Section 2006(b) of title 39, United States Code, is
20 amended to read as follows:

21 “(b) The Secretary of the Treasury may purchase ob-
22 ligations of the Postal Service in such amounts as the Sec-
23 retary of the Treasury and the Postal Service, in their dis-
24 cretion, may agree.”.

1 **TITLE V—BUDGET AND**
2 **APPROPRIATIONS PROCESS**

3 **SEC. 501. REPEAL OF PROVISION RELATING TO TRANSI-**
4 **TIONAL APPROPRIATIONS.**

5 (a) REPEAL.—(1) Section 2004 of title 39, United
6 States Code, is repealed.

7 (2) The item relating to section 2004 in the table of
8 sections at the beginning of chapter 20 of such title 39
9 is repealed.

10 (3) Section 2003(e)(2) of such title 39 is amended
11 by striking “sections 2401 and 2004” each place it ap-
12 pears and inserting “section 2401”.

13 (b) CLARIFICATION THAT LIABILITIES FORMERLY
14 PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES
15 PAYABLE BY THE POSTAL SERVICE.—Section 2003 of
16 title 39, United States Code, is amended by adding at the
17 end the following:

18 “(h) Liabilities of the former Post Office Department
19 to the Employees’ Compensation Fund (appropriations for
20 which were authorized by former section 2004, as in effect
21 before the effective date of this subsection) shall be liabil-
22 ities of the Postal Service payable out of the Fund.”.

23 (c) EFFECTIVE DATE.—This section and the amend-
24 ments made by this section shall take effect on October
25 1, 1997.

1 **SEC. 502. PROVISIONS RELATING TO BENEFITS UNDER**
2 **CHAPTER 81 OF TITLE 5, UNITED STATES**
3 **CODE, FOR OFFICERS AND EMPLOYEES OF**
4 **THE FORMER POST OFFICE DEPARTMENT.**

5 (a) IN GENERAL.—Section 8 of the Postal Reorga-
6 nization Act (39 U.S.C. 1001 note) is amended by insert-
7 ing “(a)” after “8.” and by adding at the end the follow-
8 ing:

9 “(b) For purposes of chapter 81 of title 5, United
10 States Code, the Postal Service shall, with respect to any
11 individual receiving benefits under such chapter as an offi-
12 cer or employee of the former Post Office Department,
13 have the same authorities and responsibilities as it has
14 with respect to an officer or employee of the Postal Service
15 receiving such benefits.”.

16 (b) EFFECTIVE DATE.—This section and the amend-
17 ments made by this section shall take effect on October
18 1, 1997.

19 **SEC. 503. REPEAL OF AUTHORIZATIONS OF APPROPRIA-**
20 **TIONS FOR PUBLIC SERVICE COSTS, REVE-**
21 **NUE FORGONE, AND CERTAIN COMPEN-**
22 **SATORY APPROPRIATIONS.**

23 (a) IN GENERAL.—Section 2401 of title 39, United
24 States Code, is amended by striking subsections (b), (c),
25 (d), (f), and (g), and by redesignating subsection (e) as
26 subsection (b).

1 (b) CONFORMING AMENDMENTS.—(1) Section 2003
2 of title 39, United States Code, is amended—

3 (A) in subsection (e) by striking paragraph (2)
4 and by redesignating subsection (e)(1) as subsection
5 (e); and

6 (B) by striking subsection (f) and by redesign-
7 ating subsection (g) as subsection (f).

8 (2) Section 2009 of such title 39 is amended by strik-
9 ing the last two sentences.

10 (3) Sections 2803(a) and 2804(a) of such title 39 are
11 amended by striking “2401(g)” and inserting “2401(b)”.

12 (4) Section 3626(a)(2)(B) of such title 39 is amended
13 by striking “paragraph (3)(A) or section 2401(c);” and
14 inserting “paragraph (3)(A), section 3217, or sections
15 3403–3406;”.

16 (5)(A) Section 3627 of such title 39 is repealed.

17 (B) The item relating to section 3627 in the table
18 of sections at the beginning of chapter 36 of such title
19 39 is repealed.

20 (C) Section 3684 of such title 39 is amended by strik-
21 ing “Except as provided in section 3627 of this title, no”
22 and inserting “No”.

23 (c) EFFECTIVE DATE.—This section and the amend-
24 ments made by this section shall take effect on October
25 1, 1997.

1 **SEC. 504. CONGRESSIONAL OVERSIGHT PRESERVED.**

2 Subsection (b) of section 2401 of title 39, United
3 States Code, as so redesignated by section 503(a), is
4 amended—

5 (1) by striking “Committee on Post Office and
6 Civil Service” each place it appears and inserting
7 “Committee on Government Reform and Oversight”;

8 (2) by striking “and the Committees on Appro-
9 priations of the Senate and the House of Represent-
10 atives”;

11 (3) in the matter before paragraph (1)—

12 (A) by striking “2009 of this title,” and
13 inserting “2009 for a fiscal year,”; and

14 (B) by striking “for the fiscal year for
15 which funds are requested to be appropriated,”
16 and inserting “for such fiscal year,”;

17 (4) in paragraph (3) by striking “during the
18 fiscal year for which funds are requested to be ap-
19 propriated,” and inserting “during the fiscal year re-
20 ferred to in the matter before paragraph (1),”;

21 (5) by striking “Not later than March 15 of
22 each year,” and inserting “Each year,”; and

23 (6) by striking “any such committee considers
24 necessary to determine the amount of funds to be
25 appropriated for the operation of the Postal Serv-

1 ice,” and inserting “either such committee considers
2 necessary,”.

3 **TITLE VI—MISCELLANEOUS**
4 **PROVISIONS RELATING TO**
5 **POSTAL RATES, CLASSES,**
6 **AND SERVICES**

7 **SEC. 601. CHANGE-OF-ADDRESS ORDER INVOLVING A COM-**
8 **MERCIAL MAIL RECEIVING AGENCY.**

9 (a) IN GENERAL.—Subchapter V of chapter 36 of
10 title 39, United States Code, is amended by adding at the
11 end the following:

12 **“§ 3686. Change-of-address order involving a commer-**
13 **cial mail receiving agency**

14 “(a) For the purpose of this section, the term ‘com-
15 mercial mail receiving agency’ or ‘CMRA’ means a private
16 business that acts as the mail receiving agent for specific
17 clients.

18 “(b) Upon termination of an agency relationship be-
19 tween an addressee and a commercial mail receiving agen-
20 cy—

21 “(1) the addressee or, if authorized to do so,
22 the CMRA may file a change-of-address order with
23 the Postal Service with respect to such addressee;

8 “(c) Mail described in subsection (b)(3) shall, if
9 marked for forwarding and remailed by the CMRA, be for-
10 forwarded by the Postal Service in the same manner as, and
11 subject to the same terms and conditions (including limita-
12 tions on the period of time for which a change-of-address
13 order shall be given effect) as apply to, mail forwarded
14 directly by the Postal Service to the addressee.”.

“3686. Change-of-address order involving a commercial mail receiving agency.”.

(a) RATES FOR CERTAIN NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 3626(b)(3) of title 39, United States Code, is amended by striking the period and inserting “, and includes a nonprofit organization that coordinates a network of college-level courses that is sponsored

1 primarily by nonprofit educational institutions for an older
2 adult constituency.”.

3 (b) RATES FOR MAIL UNDER FORMER SECTION
4 4358.—Section 3626 of title 39, United States Code, is
5 amended by adding at the end the following:

6 “(n) In the administration of this section, matter
7 shall not be excluded from being mailed at the rates for
8 mail under former section 4358 solely because such matter
9 does not meet the requirements of former section
10 4354(a)(5).”.

11 **SEC. 603. POWERS OF THE POSTAL RATE COMMISSION.**

12 Section 3604 of title 39, United States Code, is
13 amended by adding at the end the following:

14 “(f)(1) Any Commissioner of the Commission, any
15 administrative law judge appointed by the Commission
16 under section 3105 of title 5, and any employee of the
17 Commission designated by the Commission may admin-
18 ister oaths, examine witnesses, take depositions, and re-
19 ceive evidence.

20 “(2) The Chairman of the Commission, any Commis-
21 sioner designated by the Chairman, and any administra-
22 tive law judge appointed by the Commission under section
23 3105 of title 5 may, with respect to any proceeding under
24 section 3624 or 3661 or chapter 37—

1 “(A) issue subpoenas requiring the attendance
2 and presentation of testimony of any individual, and
3 the production of documentary or other evidence,
4 from any place in the United States, any territory
5 or possession of the United States, the Common-
6 wealth of Puerto Rico, or the District of Columbia;
7 and

8 “(B) order the taking of depositions and re-
9 sponses to written interrogatories.

10 The written concurrence of a majority of the Commis-
11 sioners then holding office shall, with respect to each sub-
12 pena under subparagraph (A), be required in advance of
13 its issuance.

14 “(3) In the case of contumacy or failure to obey a
15 subpena issued under this subsection, upon application by
16 the Commission, the district court of the United States
17 for the district in which the person to whom the subpena
18 is addressed resides or is served may issue an order requir-
19 ing such person to appear at any designated place to tes-
20 tify or produce documentary or other evidence. Any failure
21 to obey the order of the court may be punished by the
22 court as a contempt thereof.

23 “(g)(1) If the Postal Service determines that any doc-
24 ument or other matter it provides to the Commission pur-
25 suant to a subpoena issued under subsection (f), or other-

1 wise at the request of the Commission in connection with
2 any proceeding or other purpose under this chapter or
3 chapter 37, contains information which is described in sec-
4 tion 410(c) of this title, or exempt from public disclosure
5 under section 552(b) of title 5, the Postal Service shall,
6 at the time of providing such matter to the Commission,
7 notify the Commission, in writing, of its determination
8 (and the reasons therefor).

9 “(2) No officer or employee of the Commission may,
10 with respect to any information as to which the Commis-
11 sion has been notified under paragraph (1)—

12 “(A) use such information for purposes other
13 than the purposes for which it is supplied; or

14 “(B) permit anyone who is not an officer or
15 employee of the Commission to have access to any
16 such information.

17 “(3) Paragraph (2) shall not prevent information
18 from being furnished under any process of discovery estab-
19 lished under this title in connection with a proceeding
20 under this chapter or chapter 37 which is conducted in
21 accordance with sections 556 and 557 of title 5. The Com-
22 mission shall, by regulations based on rule 26(c) of the
23 Federal Rules of Civil Procedure, establish appropriate ad-
24 ministrative and other safeguards to ensure the security

1 and confidentiality of any information furnished under the
 2 preceding sentence.”.

3 **SEC. 604. VOLUME DISCOUNTS.**

4 (a) IN GENERAL.—Subsection (c) of section 403 of
 5 title 39, United States Code, is amended by striking “(c)”
 6 and inserting “(c)(1)” and by adding at the end the fol-
 7 lowing:

8 “(2) Nothing in this title shall be considered to pre-
 9 clude the Postal Service from offering any discount in a
 10 rate or fee, on the basis of volume, so long as—

11 “(A) all persons are, with respect to the class
 12 of mail or postal service involved, eligible for the
 13 same volume discount; and

14 “(B) the discounted rate—

15 “(i) if a product in the noncompetitive cat-
 16 egory of mail is involved, does not exceed the
 17 maximum rate then allowable for such product
 18 under subchapter II of chapter 37; or

19 “(ii) if a product in the competitive cat-
 20 egory of mail is involved, satisfies the require-
 21 ment under section 3742(b) that each such
 22 product bear the direct and indirect postal costs
 23 attributable to such product plus a reasonable
 24 contribution to all other costs of the Postal
 25 Service.”.

1 (b) DEMONSTRATION PROJECT.—

2 (1) IN GENERAL.—

3 (A) PURPOSE.—As soon as practicable
4 after the date of the enactment of this Act, the
5 United States Postal Service shall conduct a
6 demonstration project, the purpose of which
7 shall be to determine the feasibility and desir-
8 ability of affording volume discounts to mailers
9 on a negotiated basis.

10 (B) LIMITATION.—The demonstration
11 project shall be limited to products in the com-
12 petitive category of mail (within the meaning of
13 section 3741(2) of title 39, United States Code,
14 as amended by section 1001).

15 (C) DISCOUNTS.—Under the demonstra-
16 tion project, any discounts shall be on such
17 terms and conditions as may be mutually
18 agreed to by the Postal Service and the mailer,
19 subject to section 403(c)(2)(B)(ii) of title 39,
20 United States Code (as amended by subsection
21 (a)).

22 (2) OTHER REQUIREMENTS.—Subsections
23 (c)(1)(A), (d)(1) (excluding subparagraphs (A)(i),
24 (B)(ii), and (C)(ii) thereof), and (e) of section 704

1 shall apply with respect to the demonstration project
 2 under this subsection.

3 (c) EFFECTIVE DATE.—This section and the amend-
 4 ments made by this section shall take effect on the date
 5 on which section 1002 (relating to termination of rate-
 6 making authority under chapter 36 and related matters)
 7 takes effect.

8 **TITLE VII—PROVISIONS RELAT-**
 9 **ING TO TRANSPORTATION,**
 10 **CARRIAGE, OR DELIVERY OF**
 11 **MAIL**

12 **SEC. 701. OBSOLETE PROVISIONS.**

13 (a) REPEAL.—Chapter 52 of title 39, United States
 14 Code, is repealed.

15 (b) CONFORMING AMENDMENTS.—(1) Section
 16 5005(a) of title 39, United States Code, is amended—

17 (A) by repealing paragraph (1); and

18 (B) in paragraph (4) by striking “(as defined in
 19 section 5201(6) of this title)”.

20 (2) Section 10721(b)(1) of title 49, United States
 21 Code, is amended by striking “chapters 50 and 52” and
 22 inserting “chapter 50”.

23 (c) ELIMINATING RESTRICTION ON LENGTH OF CON-
 24 TRACTS.—(1) Section 5005(b)(1) of title 39, United
 25 States Code, is amended by striking “shall be for periods

1 not in excess of 4 years (or where the Postal Service deter-
2 mines that special conditions or the use of special equip-
3 ment warrants, not in excess of 6 years) and”.

4 (2) Section 5402(c) of such title 39 is amended by
5 striking “for a period of not more than 4 years”.

6 (3) Section 5605 of such title 39 is amended by strik-
7 ing “for periods of not in excess of 4 years”.

8 **SEC. 702. EXPANDED CONTRACTING AUTHORITY.**

9 Subsection (d) of section 5402 of title 39, United
10 States Code, is amended to read as follows:

11 “(d) Notwithstanding the provisions of subsections
12 (a) through (c), the Postal Service may contract for the
13 transportation of mail by aircraft, except as provided in
14 subsections (f) and (g).”.

15 **SEC. 703. PRIVATE CARRIAGE OF LETTERS.**

16 Section 601(a) of title 39, United States Code, is
17 amended by inserting “when the amount paid for private
18 carriage of the letter is at least \$2, or” before “when”.

19 **SEC. 704. MAILBOX DEMONSTRATION PROJECT.**

20 (a) PURPOSE.—The purpose of this section is to de-
21 termine the feasibility and desirability of allowing non-
22 postage bearing matter to be deposited in private
23 letterboxes.

1 (b) PROJECT.—As soon as practicable after the date
2 of the enactment of this Act, the United States Postal
3 Service shall—

4 (1) develop a plan for the conducting of a dem-
5 onstration project under this section; and

6 (2) within 18 months after the date of the en-
7 actment of this Act, commence implementation of
8 such plan.

9 (c) SPECIFICATIONS.—

10 (1) IN GENERAL.—The demonstration project—

11 (A) shall be conducted over a 3-year pe-
12 riod;

13 (B) shall include such areas as the Postal
14 Service considers appropriate, except that such
15 project shall include at least 1 urban area, 1
16 rural area, and 1 suburban area, each of which
17 shall involve a sufficient level of participation so
18 as to ensure meaningful results; and

19 (C) shall include provisions under which
20 any person may elect not to participate, or to
21 cease to participate, in the project.

22 (2) TEMPORARY SUSPENSION OF SECTION 1725
23 OF TITLE 18.—Section 1725 of title 18, United
24 States Code, shall not apply with respect to conduct
25 occurring—

1 (A) within an area included in the dem-
2 onstration project; and

3 (B) while the demonstration project is on-
4 going.

5 (d) PROCEDURES.—

6 (1) IN GENERAL.—The Postal Service shall—

7 (A) develop a plan for the demonstration
8 project which identifies—

9 (i) the specific areas to be included in
10 the project;

11 (ii) the commencement and termi-
12 nation dates of the project;

13 (iii) the legal authority for the project;
14 and

15 (iv) specific details as to what the
16 project will entail;

17 (B) at least 90 days before commencing
18 implementation of the project—

19 (i) publish the proposed plan in the
20 Federal Register, including notice as to the
21 time and manner in which interested per-
22 sons may submit written comments; and

23 (ii) provide notification of the pro-
24 posed plan to persons served within the
25 areas to be included in the project, includ-

1 ing the relevant information as to the time,
2 form, and manner in which any such per-
3 son shall have the opportunity to present
4 their views, in writing or by oral presen-
5 tation, as they may elect; and

6 (C) after considering the comments and
7 views and any other information received under
8 subparagraph (B), prepare the final version of
9 the plan for such project and, not later than 30
10 days before commencing implementation of the
11 project—

12 (i) publish the final plan in the Fed-
13 eral Register; and

14 (ii) provide notification of the final
15 plan to persons served within the areas to
16 be included in the project.

17 (2) FACTORS TO BE TAKEN INTO ACCOUNT IN
18 SELECTING AREAS FOR INCLUSION.—In identifying
19 areas for inclusion in the demonstration project, the
20 Postal Service shall take into account—

21 (A) what types of data are needed in order
22 to permit a meaningful evaluation under sub-
23 section (e); and

24 (B) such other factors as the Postal Serv-
25 ice considers appropriate.

1 (3) WRITTEN DETERMINATIONS.—Any deter-
 2 mination of the Postal Service to commence imple-
 3 mentation of the demonstration project shall be in
 4 writing and shall include the findings of the Postal
 5 Service with respect to the factors required to be
 6 taken into account under paragraph (2). Such deter-
 7 mination and findings shall be made available to the
 8 persons served by the Postal Service within each
 9 area included in the project.

10 (e) EVALUATION.—Not later than 1 year after the
 11 demonstration project ends, the Comptroller General of
 12 the United States shall submit to each House of Congress
 13 a written evaluation of such project, including rec-
 14 ommendations as to whether or not the authority tested
 15 by the project should be broadened in scope and made per-
 16 manent and, if so, with what modifications (if any).

17 **TITLE VIII—DIRECT APPEAL OF**
 18 **DECISIONS OF THE MERIT**
 19 **SYSTEMS PROTECTION**
 20 **BOARD**

21 **SEC. 801. DIRECT APPEAL OF DECISIONS OF THE MERIT**
 22 **SYSTEMS PROTECTION BOARD.**

23 Section 7703 of title 5, United States Code, is
 24 amended by adding at the end the following:

1 “(e)(1) The Chief Executive Officer may, with respect
2 to any employee of the Postal Service or applicant for em-
3 ployment with the Postal Service, and subject to the provi-
4 sions of sections 409(b)–(e) and 411 of title 39, obtain
5 review of any final order or decision of the Board by filing
6 a petition for judicial review in the United States Court
7 of Appeals for the Federal Circuit if the Chief Executive
8 Officer determines, in his or her discretion, that the Board
9 erred in interpreting a civil service law, rule, or regulation
10 affecting personnel management and that the Board’s de-
11 cision will have a substantial impact on a civil service law,
12 rule, regulation, or policy directive, as applied with respect
13 to the Postal Service. If the Chief Executive Officer did
14 not intervene in a matter before the Board, the Chief Ex-
15 ecutive Officer may not petition for review of a Board deci-
16 sion under this section unless the Chief Executive Officer
17 first petitions the Board for a reconsideration of its deci-
18 sion, and such petition is denied. In addition to the named
19 respondent, the Board and all other parties to the proceed-
20 ings before the Board shall have the right to appear in
21 the proceeding before the Court of Appeals. The granting
22 of the petition for judicial review shall be at the discretion
23 of the Court of Appeals.

24 “(2) For purposes of applying the provisions of sec-
25 tion 7701(e) in the case of a decision that relates to an

1 employee of the Postal Service or applicant for employ-
 2 ment with the Postal Service, such provisions shall be ap-
 3 plied by substituting ‘Director or Chief Executive Officer
 4 of the United States Postal Service’ for ‘Director’.

5 “(3) For purposes of this subsection—

6 “(A) the term ‘Chief Executive Officer’ means
 7 the Chief Executive Officer of the United States
 8 Postal Service; and

9 “(B) the term ‘Postal Service’ means the Unit-
 10 ed States Postal Service.”.

11 **TITLE IX—LAW ENFORCEMENT**
 12 **Subtitle A—Amendments to Title**
 13 **39, United States Code**

14 **SEC. 901. MAKE FEDERAL ASSAULT STATUTES APPLICABLE**
 15 **TO POSTAL CONTRACT EMPLOYEES.**

16 Section 1008 of title 39, United States Code, is
 17 amended—

18 (1) in subsection (a) by inserting “or entrusted
 19 with mail under contract with the Postal Service”
 20 after “mail”; and

21 (2) in subsection (b) by inserting “an employee
 22 of the Postal Service for the purposes of sections
 23 111 and 1114 of title 18, and” after “deemed”.

1 **SEC. 902. SEXUALLY ORIENTED ADVERTISING.**

2 (a) CIVIL PENALTY.—Section 3011 of title 39, Unit-
3 ed States Code, is amended—

4 (1) by redesignating subsections (b) through (e)
5 as subsections (c) through (f), respectively; and

6 (2) by inserting after subsection (a) the follow-
7 ing:

8 “(b)(1) Upon a finding by the court that a sexually
9 oriented advertisement has been mailed in violation of sec-
10 tion 3010(b), the court may assess, on whoever made the
11 mailing or caused it to be made, a civil penalty of not
12 less than \$500 and not more than \$1,500 for each viola-
13 tion. Each piece of mail sent in violation of section
14 3010(b) shall constitute a separate violation.

15 “(2) For purposes of this subsection—

16 “(A) receipt of a sexually oriented advertise-
17 ment after the recipient’s name and address have
18 been listed (as described in section 3010(b)) for at
19 least 60 days shall create a rebuttable presumption
20 that such advertisement was mailed more than 30
21 days after that individual’s name and address be-
22 came so listed; and

23 “(B) receipt in the mail of a sexually oriented
24 advertisement addressed to ‘Occupant’ or ‘Resident’
25 (or any other term permitted by Postal Service
26 standards on simplified addressing) at the recipient’s

1 address, or which is specifically addressed to the re-
 2 cipient, but with an inconsequential error or vari-
 3 ation in the recipient's name or address, shall, for
 4 purposes of applying the mailing prohibition of sec-
 5 tion 3010(b), create a rebuttable presumption that
 6 such advertisement was mailed to such recipient.

7 “(3) Any penalty assessed under paragraph (1) shall
 8 be paid to the Postal Service for deposit in the Postal
 9 Service Fund established by section 2003.”.

10 (b) REPEAL.—

11 (1) IN GENERAL.—Section 3008 of title 39,
 12 United States Code, and the item relating to such
 13 section in the table of sections at the beginning of
 14 chapter 30 of such title, are repealed.

15 (2) CONFORMING AMENDMENTS.—(A) Sub-
 16 section (f) of section 3011 of such title 39 (as so re-
 17 designated by subsection (a)) is amended by striking
 18 “section 3006, 3007, or 3008” and inserting “sec-
 19 tion 3006 or 3007”.

20 (B) Section 1737 of title 18, United States
 21 Code, is amended—

22 (i) in subsection (a) by striking “3008 or”;
 23 and
 24 (ii) in subsection (b) by striking “3008(a)
 25 or”.

1 (c) **EFFECTIVE DATE.**—This section and the amend-
 2 ments made by this section shall take effect 90 days after
 3 the date of the enactment of this Act. The amendments
 4 made by this section shall be treated as if they had never
 5 been enacted for purposes of any mailing made or caused
 6 to be made before this section takes effect.

7 **SEC. 903. ALLOW POSTAL SERVICE TO RETAIN ASSET FOR-**
 8 **FEITURE RECOVERIES.**

9 Paragraph (7) of section 2003(b) of title 39, United
 10 States Code, is amended to read as follows:

11 “(7) amounts (including proceeds from the sale
 12 of forfeited items) from any civil forfeiture con-
 13 ducted by the Postal Service and from any forfeiture
 14 resulting from an investigation in which the Postal
 15 Service has primary responsibility, except that noth-
 16 ing in this paragraph shall preclude the Postal Serv-
 17 ice, on such terms as it may determine, from sharing
 18 such amounts with any Federal, State, or local law
 19 enforcement agency which participated in any of the
 20 acts which led to the seizure or forfeiture of the
 21 property; and”.

22 **SEC. 904. HAZARDOUS MATTER.**

23 (a) **CIVIL PENALTY.**—Chapter 30 of title 39, United
 24 States Code, is amended by adding at the end the follow-
 25 ing:

1 **“§ 3016. Civil penalty for prohibited mailing and defi-**
2 **cient packaging of hazardous matter**

3 “(a) For the purposes of this section—

4 “(1) the term ‘parcel’ includes any kind of
5 package, envelope, container, or other piece of mail;

6 “(2) the term ‘manner’ includes the preparation
7 and packaging of a piece of mail;

8 “(3) a person shall be considered to have acted
9 knowingly if—

10 “(A) such person had actual knowledge of
11 the facts giving rise to the violation; or

12 “(B) a reasonable person acting in the
13 same circumstances and exercising due care
14 would have had such knowledge; and

15 “(4) the term ‘hazardous matter’ has the mean-
16 ing given such term by section 1716 of title 18.

17 “(b) Any person—

18 “(1) who knowingly mails or causes to be
19 mailed any parcel, the contents of which constitute
20 or include any hazardous matter which has been de-
21 clared by statute or Postal Service regulation to be
22 nonmailable under any circumstances;

23 “(2) who knowingly mails or causes to be
24 mailed a parcel in violation of any statute or Postal
25 Service regulation restricting the time, place, or

1 manner in which hazardous matter may be mailed;
2 or

3 “(3) who knowingly manufactures, distributes,
4 or sells any container, packaging kit, or similar de-
5 vice that—

6 “(A) is represented, marked, certified, or
7 sold by such person for use in the mailing of
8 any hazardous matter; and

9 “(B) fails to conform with any statute or
10 Postal Service regulation setting forth stand-
11 ards for containers, packaging kits, or similar
12 devices used for the mailing of hazardous mat-
13 ter;

14 shall be liable to the Postal Service for a civil penalty in
15 an amount not to exceed \$25,000 per violation.

16 “(c) The Postal Service may enforce this section by
17 commencing a civil action in accordance with section
18 409(d). The action may be brought in the district court
19 of the United States for the district in which the defend-
20 ant resides or any district in which the defendant conducts
21 business or in which a violation of this section was discov-
22 ered.

23 “(d) In determining the amount of any civil penalty
24 to be assessed under this section, the district court—

25 “(1) shall treat as a separate violation—

1 “(A) each parcel mailed or caused to be
2 mailed as described in paragraph (1) or (2) of
3 subsection (b); and

4 “(B) each container, packaging kit, or
5 similar device manufactured, distributed, or
6 sold as described in subsection (b)(3); and

7 “(2) shall take into account—

8 “(A) the nature, circumstances, extent,
9 and gravity of each violation committed; and

10 “(B) with respect to the person found to
11 have committed such violation, the degree of
12 culpability, any history of prior offenses, ability
13 to pay, effect on ability to continue to do busi-
14 ness, and such other matters as justice may re-
15 quire.

16 “(e) All penalties collected under authority of this
17 section shall be paid into the Postal Service Fund estab-
18 lished by section 2003.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of chapter 30 of title 39, United States
21 Code, is amended by adding at the end the following:

“3016. Civil penalty for prohibited mailing and deficient packaging of hazardous
matter.”.

1 **Subtitle B—Other Provisions**

2 **SEC. 911. STALKING FEDERAL OFFICERS AND EMPLOYEES.**

3 (a) IN GENERAL.—Chapter 41 of title 18, United
4 States Code, is amended by adding at the end the follow-
5 ing:

6 **“§ 881. Stalking Federal and postal officers and em-**
7 **ployees**

8 “(a) Whoever—

9 “(1) repeatedly engages in a pattern of conduct
10 (including maintaining a visual or physical proximity
11 or verbal or written threat) directed at another per-
12 son who is or was an officer or employee—

13 “(A) in the executive, legislative, or judicial
14 branch of the Federal Government; or

15 “(B) in the United States Postal Service;
16 while such other person is engaged in official duties
17 or on account of such duties;

18 “(2) knows that such conduct is likely to place
19 that other person in reasonable fear of sexual bat-
20 tery, bodily injury, or death; and

21 “(3) thereby induces such fear in that other
22 person;

23 shall be punished as provided in subsection (b) of this sec-
24 tion.

1 “(b)(1) The punishment for an offense under sub-
2 section (a) of this section is the greatest of the following:

3 “(A) In the case of a first conviction under
4 such subsection, a fine under this title or imprison-
5 ment for not more than 3 years, or both.

6 “(B) In the case of a second or subsequent con-
7 viction under such subsection, a fine under this title
8 or imprisonment for not more than 15 years, or
9 both.

10 “(C) If, during the commission of the offense,
11 the offender uses a deadly or dangerous weapon, a
12 fine under this title or imprisonment for not more
13 than 10 years, or both.

14 “(D) If the offense violates a protective order,
15 a fine under this title or imprisonment for not more
16 than 5 years, or both.

17 “(2) If a sentence of probation is imposed for an of-
18 fense under subsection (a) of this section, the court shall
19 require the defendant to undergo appropriate psychiatric,
20 psychological, or social counselling.

21 “(c) As used in this section, the term ‘protective
22 order’ means any court order that requires an individual—

23 “(1) to refrain from behavior prohibited by sub-
24 section (a) of this section; or

1 “(2) to refrain from contact with the person
2 who subsequently is a victim of the offense under
3 such subsection that is committed by that individual.

4 “(d)(1) Whoever is or is about to be aggrieved by a
5 violation of subsection (a) of this section may, in a civil
6 action, obtain from the person engaging or about to en-
7 gage in that violation, appropriate relief, including puni-
8 tive damages in the case of a completed violation and rea-
9 sonable attorney’s fees.

10 “(2) If—

11 “(A) the court issues an injunction against the
12 person engaging or about to engage in a violation of
13 subsection (a) of this section;

14 “(B) such person is an officer or employee in
15 the executive branch of the Federal Government or
16 in the United States Postal Service; and

17 “(C) there is a nexus between the enjoined con-
18 duct and such person’s office or employment;
19 the court may order that the person be suspended or sum-
20 marily discharged from such office or employment.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of chapter 41 of title 18, United States
23 Code, is amended by adding at the end the following:

“881. Stalking Federal and postal officers and employees.”.

1 **SEC. 912. NONMAILABILITY OF CONTROLLED SUBSTANCES.**

2 Section 1716 of title 18, United States Code, is
3 amended by adding at the end the following:

4 “Whoever knowingly deposits for mailing or delivery,
5 or knowingly causes to be delivered by mail, according to
6 the direction thereon, or at any place at which it is di-
7 rected to be delivered by the person to whom it is ad-
8 dressed, unless in accordance with the rules and regula-
9 tions authorized to be prescribed by the Postal Service,
10 any controlled substance, as that term is defined for the
11 purposes of the Controlled Substances Act, shall, if the
12 distribution of a like amount of such substance is a felony
13 under such Act, be fined under this title or imprisoned
14 not more than 5 years, or both.”.

15 **SEC. 913. ENHANCED PENALTIES.**

16 Pursuant to its authority under section 994 of title
17 28, United States Code, the United States Sentencing
18 Commission shall amend its sentencing guidelines to—

19 (1) appropriately enhance penalties in cases in
20 which a defendant is convicted of stealing or de-
21 stroying a quantity of undelivered United States
22 mail, in violation of sections 1702, 1703, 1708,
23 1709, 2114, or 2115 of title 18, United States Code;
24 and

25 (2) establish that the intended loss in a theft of
26 an access device as defined in section 1029(e)(1) of

1 title 18, United States Code, shall be based on the
 2 credit line of the access device or the actual unau-
 3 thorized charges, whichever amount is greater.

4 **SEC. 914. POSTAL BURGLARY PROVISIONS.**

5 (a) LARCENY INVOLVING POST OFFICE BOXES AND
 6 POSTAL STAMP VENDING MACHINES.—Section 2115 of
 7 title 18, United States Code, is amended—

8 (1) by striking “or” before “any building”;

9 (2) by inserting “or any post office box or post-
 10 al products vending machine,” after “used in whole
 11 or in part as a post office,”;

12 (3) by inserting “or in such box or machine,”
 13 after “so used”; and

14 (4) by striking “not more than \$1,000” and in-
 15 serting “under this title”.

16 (b) RECEIPT, POSSESSION, CONCEALMENT, OR DIS-
 17 POSITION OF PROPERTY.—Section 2115 of title 18, Unit-
 18 ed States Code, is amended—

19 (1) by inserting “(a)” before “Whoever”; and

20 (2) by adding at the end the following:

21 “(b) Whoever receives, possesses, conceals, or dis-
 22 poses of any mail matter, money, or other property of the
 23 United States, that has been obtained in violation of this
 24 section, knowing the same to have been unlawfully ob-

1 tained, shall be fined under this title or imprisoned not
2 more than 5 years, or both.”.

3 **SEC. 915. MAIL, MONEY, OR OTHER PROPERTY OF THE**
4 **UNITED STATES.**

5 (a) ENHANCED PENALTY FOR ROBBERY.—Sub-
6 section (a) of section 2114 of title 18, United States Code,
7 is amended to read as follows:

8 “(a) ASSAULT.—Whoever assaults any person having
9 lawful charge, control, or custody of any mail matter or
10 of any money or other property of the United States, with
11 intent to rob, steal, or purloin such mail matter, money,
12 or other property of the United States, or robs or attempts
13 to rob any such person of mail matter, or of any money,
14 or other property of the United States, shall, for the first
15 offense, be imprisoned not more than 10 years or fined
16 under this title, or both. If, in effecting or attempting to
17 effect such robbery the defendant wounds the person hav-
18 ing custody of such mail, money, or other property of the
19 United States, or puts that person’s life in jeopardy by
20 the use of a dangerous weapon, or the offense is a subse-
21 quent offense under this subsection, the defendant shall
22 be imprisoned not more than 25 years or fined under this
23 title, or both. If the death of any person results from the
24 offense under this subsection, the defendant shall be pun-
25 ished by death or life imprisonment.”.

1 (b) ATTEMPT OFFENSES.—

2 (1) The second paragraph of section 501 of title
3 18, United States Code, is amended by striking
4 “uses or sells,” and inserting “uses or sells or at-
5 tempts to use or sell,”.

6 (2) Section 1711 of title 18, United States
7 Code, is amended by inserting “attempts to loan,
8 use, pledge, hypothecate, or convert to this own
9 use,” after “converts to his own use,”.

10 **TITLE X—NEW SYSTEM RELAT-**
11 **ING TO POSTAL RATES,**
12 **CLASSES, AND SERVICES**

13 **SEC. 1001. ESTABLISHMENT.**

14 (a) IN GENERAL.—Title 39, United States Code, is
15 amended by adding after chapter 36 the following:

16 **“CHAPTER 37—NEW SYSTEM FOR ESTABLISHING**
17 **POSTAL RATES, CLASSES, AND SERVICES**

“SUBCHAPTER I—BASELINE RATES AND FEES

“Sec.

“3701. Establishment of baseline rates and fees.

“SUBCHAPTER II—RATES AND FEES FOR PRODUCTS IN THE
NONCOMPETITIVE CATEGORY OF MAIL

“3721. Definitions.

“3722. Maximum rates.

“3723. Adjustment factor.

“3724. Action of the Directors.

“SUBCHAPTER III—RATES AND FEES FOR PRODUCTS IN THE
COMPETITIVE CATEGORY OF MAIL

“3741. Definitions.

“3742. Action of the Directors.

“3743. Transfers of products from the noncompetitive category of mail.

“3744. Application of antitrust laws.

“SUBCHAPTER IV—MARKET TESTS OF EXPERIMENTAL
PRODUCTS

“3761. Market tests.

“SUBCHAPTER V—REPORTING REQUIREMENTS AND RELATED
PROVISIONS

“3781. Definition.

“3782. Reporting requirements.

“3783. Use of profits.

1 “SUBCHAPTER I—BASELINE RATES AND FEES

2 **“§ 3701. Establishment of baseline rates and fees**

3 “(a) REQUIREMENT THAT A RATEMAKING REQUEST
4 BE MADE.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), the Postal Service shall, within 18
7 months after the effective date of this chapter, re-
8 quest the Postal Rate Commission to submit a rec-
9 ommended decision on appropriate changes in rates
10 of postage and in fees for postal services, in accord-
11 ance with section 3622(a).

12 “(2) EXCEPTION.—A request under this sub-
13 section may not be made if, on the effective date of
14 this chapter—

15 “(A) a new schedule of rates and fees
16 takes effect under subchapter II of chapter 36
17 pursuant to a previous request under section
18 3622(a); or

1 “(B) a recommended decision or further
 2 recommended decision pursuant to a previous
 3 request under section 3622(a), or judicial re-
 4 view of any such decision or recommended deci-
 5 sion, is pending.

6 “(b) BASELINE RATES AND FEES ESTABLISHED
 7 PURSUANT TO THIS SECTION.—

8 “(1) IN GENERAL.—For purposes of this title,
 9 the baseline rates and fees established pursuant to
 10 this section shall be—

11 “(A) the rates and fees taking effect pur-
 12 suant to a request made under subsection
 13 (a)(1), subject to subparagraph (C)(i) or para-
 14 graph (2)(A) (as applicable);

15 “(B) the rates and fees—

16 “(i) that, by virtue of subsection
 17 (a)(2)(A), preclude the making of a re-
 18 quest under subsection (a)(1); or

19 “(ii) that take effect upon completion
 20 of all proceedings referred to in subsection
 21 (a)(2)(B), subject to subparagraph (C)(ii)
 22 or paragraph (2)(B) (as applicable); or

23 “(C)(i) if a request under subsection (a)(1)
 24 is made, but proceedings pursuant to such re-
 25 quest have not been completed by the end of

the 18-month period beginning on the date on which such request is made, the rates and fees in effect at the end of such period (including any temporary rate or fee then in effect under subchapter III of chapter 36); or

“(ii) if a request under subsection (a)(1) is precluded by virtue of the provisions of subsection (a)(2)(B), but the proceedings referred to in such provisions have not been completed by the end of the 18-month period referred to in subsection (a)(1), the rates and fees in effect at the end of such period (including any temporary rate or fee then in effect under subchapter III of chapter 36).

“(2) APPLICABLE STATUTORY DEADLINE NOT CHANGEABLE BY ADMINISTRATIVE OR OTHER ACTION.—Rates and fees established under chapter 36 pursuant to—

“(A) a request made under subsection (a)(1) shall take effect as of the date determined in accordance with section 3625(f) or otherwise applicable provisions of such chapter, except that in no event may the date so determined be later than the last day of the 18-

1 month period referred to in paragraph
2 (1)(C)(i); or

3 “(B) a previous request, as referred to in
4 subsection (a)(2)(B), shall take effect as of the
5 date determined in accordance with section
6 3625(f) or otherwise applicable provisions of
7 such chapter, except that in no event may the
8 date so determined be later than the last day of
9 the 18-month period referred to in subsection
10 (a)(1).

11 “(c) PRIORITY OF RATEMAKING FACTORS IF PURSU-
12 ANT TO A REQUEST UNDER THIS SECTION.—If a request
13 under subsection (a)(1) is made, then, for purposes of all
14 proceedings under chapter 36 relating to such request,
15 subsection (b) of section 3622 shall be considered to be
16 amended to read as follows:

17 ““(b) Upon receiving a request, the Commission shall
18 make a recommended decision on the request for changes
19 in rates or fees in each class of mail or type of service
20 in accordance with the policies of this title and the follow-
21 ing factors, set forth in descending order of priority:

22 ““(1) The requirement that each class of mail
23 or type of mail service bear the direct and indirect
24 postal costs attributable to such class or type plus

1 that portion of all other costs of the Postal Service
2 reasonably assignable to such class or type.

3 “(2) The value of the mail service to senders,
4 as reflected by the volume response of classes of
5 mail and types of service to changes in postal rates
6 and fees, and, as appropriate, the price and quality
7 of alternative means of sending mail.

8 “(3) The quality of mail service actually pro-
9 vided each class or type of mail service, including
10 the collection, mode of transportation, priority of de-
11 livery, and timeliness of delivery (as measured by
12 reference to standards established by the Postal
13 Service).

14 “(4) The available alternative means of send-
15 ing and receiving letters and other mail matter at
16 reasonable costs.

17 “(5) The degree of preparation of mail for de-
18 livery into the postal system performed by the mailer
19 and its effect upon reducing costs to the Postal
20 Service.

21 “(6) The effect of rate increases upon users of
22 the mail and the general public.

23 “(7) Simplicity of structure for the entire
24 schedule and simple, identifiable relationships be-

1 tween the rates or fees charged the various classes
2 of mail for postal services.

3 “(8) The educational, cultural, scientific, and
4 informational value to the recipient of mail matter.

5 “(9) The establishment and maintenance of a
6 fair and equitable schedule.

7 “(10) Such other factors as the Commission
8 deems appropriate.’.

9 “SUBCHAPTER II—RATES AND FEES FOR PROD-
10 UCTS IN THE NONCOMPETITIVE CATEGORY
11 OF MAIL

12 **“§ 3721. Definitions**

13 “For purposes of this subchapter—

14 “(1) YEAR.—The term ‘year’ means a calendar
15 year.

16 “(2) GDPPI.—The term ‘GDPPI’ means the
17 Gross Domestic Product Chain-Type Price Index
18 (published quarterly by the Bureau of Economic
19 Analysis of the Department of Commerce).

20 “(3) PRODUCT.—The term ‘product’ means a
21 class of mail or type of postal service, including—

22 “(A) a subclass or other similar subordi-
23 nate unit thereof; and

1 “(B) any further subordinate unit thereof
 2 (below the first level of subordinate units re-
 3 ferred to in subparagraph (A)).

4 “(4) PRODUCTS IN THE NONCOMPETITIVE CAT-
 5 EGORY OF MAIL.—The term ‘products in the non-
 6 competitive category of mail’ means the respective
 7 products in the first, second, third, and fourth bas-
 8 kets of products (within the meaning of section
 9 3723(a)).

10 “(5) RATE.—The term ‘rate’, used with respect
 11 to a product, means—

12 “(A) for a class of mail, the rate for such
 13 class of mail; and

14 “(B) for a type of postal service, the fee
 15 for such service.

16 “(6) NONCOMPETITIVE PRODUCT.—The term
 17 ‘noncompetitive product’ means a product in the
 18 noncompetitive category of mail.

19 **“§ 3722. Maximum rates**

20 “(a) IN GENERAL.—Except as otherwise provided in
 21 this subchapter, the rate for a noncompetitive product
 22 may not, in any year, exceed the maximum rate allowable
 23 for such product in such year under this section.

24 “(b) COMPUTATION OF MAXIMUM RATE ALLOW-
 25 ABLE.—

1 “(1) IN GENERAL.—The maximum rate allow-
2 able for a noncompetitive product in any year shall
3 be computed by multiplying—

4 “(A) the change in the GDPPI for such
5 year, adjusted by the adjustment factor for
6 such year, times

7 “(B) the maximum rate allowable for such
8 product in the preceding year (determined dis-
9 regarding paragraph (4), any exercise of au-
10 thority under section 3724(d), and any alter-
11 native limitation under section 1002(e) of the
12 Postal Reform Act of 1996).

13 “(2) DEFINITIONS.—For purposes of this sub-
14 section—

15 “(A) CHANGE IN THE GDPPI.—The change
16 in the GDPPI for any year shall be equal to the
17 percentage (if any) by which—

18 “(i) the GDPPI for the preceding
19 year, exceeds

20 “(ii) the GDPPI for the second pre-
21 ceding year.

22 “(B) GDPPI FOR ANY YEAR.—The
23 GDPPI for any year is the average of the
24 GDPPI for the 4 consecutive calendar quarters
25 ending on September 30th of such year.

1 “(C) ADJUSTMENT FACTOR.—The adjust-
 2 ment factor for any year shall be determined in
 3 accordance with section 3723.

4 “(3) SPECIAL RULE FOR FIRST COMPUTA-
 5 TION.—For purposes of the first computation of a
 6 maximum rate allowable under this section for any
 7 product, the rate applied under paragraph (1)(B)
 8 shall be the baseline rate established for such prod-
 9 uct under section 3701.

10 “(4) ROUNDING.—Any maximum rate com-
 11 puted under this section shall be rounded to the
 12 nearest cent (rounding $\frac{1}{2}$ of a cent to the next high-
 13 er cent).

14 **“§ 3723. Adjustment factor**

15 “(a) DEFINITIONS.—For purposes of this section—

16 “(1) RATEMAKING CYCLE.—

17 “(A) IN GENERAL.—The term ‘ratemaking
 18 cycle’ means—

19 “(i) the 5-year period beginning on
 20 the first day of the second year beginning
 21 after the effective date of the baseline
 22 rates and fees established pursuant to sec-
 23 tion 3701; and

24 “(ii) each 5-year period beginning on
 25 the day after the last day of the imme-

1 diately preceding 5-year period under this
2 paragraph.

3 “(B) EARLIER INITIAL DATE.—The Postal
4 Rate Commission may, by written determina-
5 tion, advance the date applicable under sub-
6 paragraph (A)(i) to the date which occurs 1
7 year earlier, but only if that earlier date does
8 not precede the date on which all requirements
9 of this section have been completed with respect
10 to the ratemaking cycle involved.

11 “(2) BASKET OF PRODUCTS TO WHICH THIS
12 SECTION APPLIES.—The term ‘basket of products to
13 which this section applies’ means the first, second,
14 third, and fourth baskets of products.

15 “(3) FIRST BASKET OF PRODUCTS.—The term
16 ‘first basket of products’ means—

17 “(A) single-piece first-class letters (both
18 domestic and international);

19 “(B) single-piece first-class cards (both do-
20 mestic and international); and

21 “(C) single-piece first-class parcels (both
22 domestic and international).

23 “(4) SECOND BASKET OF PRODUCTS.—The
24 term ‘second basket of products’ means all first-class
25 mail not in the first basket of products.

1 “(5) THIRD BASKET OF PRODUCTS.—The term
2 ‘third basket of products’ means periodicals.

3 “(6) FOURTH BASKET OF PRODUCTS.—The
4 term ‘fourth basket of products’ means standard
5 mail (except for parcel post).

6 “(7) RULE OF CONSTRUCTION.—

7 “(A) IN GENERAL.—Mail matter referred
8 to in paragraphs (3) through (6) shall, for pur-
9 poses of such paragraphs, be considered to have
10 the meaning given them under the mail classi-
11 fication schedule (within the meaning of section
12 3623) as of the effective date of this chapter.

13 “(B) UPDATES.—The Board of Directors
14 shall, whenever any relevant change occurs
15 (pursuant to a reclassification under chapter
16 36, a transfer of a product from the non-
17 competitive category of mail under section
18 3743, or the conversion of an experimental
19 product under subchapter IV to a permanent
20 one), prescribe new lists of products within the
21 baskets under paragraphs (3) through (6), re-
22 spectively. The revised lists shall indicate how
23 and when any previous lists are superseded.

24 “(b) PROCEDURES RELATING TO DETERMINING AD-
25 JUSTMENT FACTORS.—

1 “(1) COMMENCEMENT.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), the Postal Rate Commission
4 shall, beginning in December of the second year
5 before the start of each ratemaking cycle, pro-
6 vide the opportunity for a hearing on the record
7 under sections 556 and 557 of title 5 to the
8 Postal Service, users of the mails, and an offi-
9 cer of the Commission who shall be required to
10 represent the interests of the general public,
11 with respect to the adjustment factors to be es-
12 tablished for the upcoming ratemaking cycle.

13 “(B) EXCEPTION.—For purposes of the
14 first hearing under this subsection, proceedings
15 shall be commenced during the second month
16 beginning on or after the effective date of the
17 baseline rates and fees established pursuant to
18 section 3701.

19 “(2) RULES OF PROCEEDINGS.—In order to
20 conduct its proceedings with utmost expedition con-
21 sistent with procedural fairness to the parties, the
22 Commission may (without limitation) adopt rules
23 which provide for—

24 “(A) the advance submission of written di-
25 rect testimony;

1 “(B) the conduct of prehearing conferences
2 to define issues, and for other purposes to in-
3 sure orderly and expeditious proceedings;

4 “(C) discovery both from the Postal Serv-
5 ice and the parties to the proceedings;

6 “(D) limitation of testimony; and

7 “(E) the conduct of the entire proceedings
8 off the record with the consent of the parties.

9 “(3) PRINTING AND NOTICE REQUIREMENTS.—

10 “(A) IN GENERAL.—The Commission’s de-
11 cision and the record of the Commission’s hear-
12 ings shall be made generally available at the
13 time the decision is issued and shall be printed
14 and made available for sale by the Public Print-
15 er within 10 days following the day the decision
16 is issued.

17 “(B) TIMING.—All actions required of the
18 Commission under this section, including those
19 under subparagraph (A), shall be completed as
20 expeditiously as possible, but in no event later
21 than the end of the year before the commence-
22 ment of the ratemaking cycle to which the deci-
23 sion relates.

1 “(c) FACTORS.—Adjustment factors shall be estab-
2 lished in accordance with the policies of this title and the
3 following:

4 “(1) The value of the product to senders, as re-
5 flected by the volume response of classes of mail and
6 types of service to changes in postal rates and fees,
7 and, as appropriate, the price and quality of alter-
8 native means of sending mail.

9 “(2) Cost to the Postal Service of providing the
10 product.

11 “(3) Productivity of the Postal Service in pro-
12 viding postal services.

13 “(4) The level of postal revenues attributable to
14 the product.

15 “(5) The actual level of service (described in
16 terms of speed of delivery and reliability) provided
17 with respect to the product.

18 “(6) Such other considerations as the Postal
19 Service and the Commission mutually agree to be
20 appropriate.

21 “(d) SEPARATE ADJUSTMENT FACTOR REQUIRED
22 FOR EACH BASKET OF PRODUCTS.—A separate adjust-
23 ment factor shall be established for each basket of prod-
24 ucts to which this section applies, and, except as provided
25 in section 3724(d), the adjustment factor applicable to any

1 basket shall be uniformly applied to all products within
2 such basket.

3 “(e) HOW EACH ADJUSTMENT FACTOR IS TO BE
4 EXPRESSED AND APPLIED.—

5 “(1) EXPRESSION.—Each adjustment factor es-
6 tablished under this section shall be expressed as a
7 percentage.

8 “(2) APPLICATION.—For purposes of section
9 3722(b)(1)(A), to adjust a change in the GDPPI by
10 an adjustment factor, the adjustment factor shall be
11 added to or subtracted from such change in the
12 GDPPI, as the case may be.

13 “(f) EXIGENT CIRCUMSTANCES.—

14 “(1) IN GENERAL.—Upon a majority vote of
15 the Directors then holding office, the Postal Service
16 may request the Postal Rate Commission to render
17 a decision on changing the adjustment factors to be
18 applied during the then current ratemaking cycle
19 (after having previously been established under this
20 section for such cycle).

21 “(2) CONDITIONS.—A request made under
22 paragraph (1) may be considered only upon written
23 certification by the Directors that—

24 “(A) the Postal Service faces severe finan-
25 cial exigencies; and

1 “(B) the change is warranted to restore
2 the Postal Service to fiscal soundness.

3 “(3) EFFECT; DURATION.—A change granted
4 under this subsection—

5 “(A) shall supersede the adjustment fac-
6 tors which would otherwise apply under this
7 section; and

8 “(B) shall remain effective for the remain-
9 der of the ratemaking cycle involved, subject to
10 paragraph (5).

11 “(4) EXPEDITED CONSIDERATION.—A request
12 made under paragraph (1) shall be acted on in the
13 same manner as if initiated under subsection (b)(1),
14 except that a decision on such request shall be ren-
15 dered not later than 6 months after the date on
16 which such request is made.

17 “(5) FREQUENCY.—Nothing in this section
18 shall be considered to limit the number of times that
19 authority under this subsection may be invoked or
20 exercised during any particular ratemaking cycle.

21 “(6) FINALITY.—A decision of the Postal Rate
22 Commission under this subsection shall be final and
23 shall not be subject to administrative or judicial re-
24 view.

1 “(g) APPELLATE REVIEW.—Except as provided in
2 subsection (f)(6), a decision of the Postal Rate Commis-
3 sion under this section may be appealed to any court of
4 appeals of the United States, within 15 days after its pub-
5 lication by the Public Printer, by an aggrieved party who
6 appeared in the proceedings under subsection (b). The
7 court shall review the decision, in accordance with section
8 706 of title 5, and chapter 158 and section 2112 of title
9 28, except as otherwise provided in this subsection, on the
10 basis of the record before the Commission. The court may
11 affirm the decision or order that the entire matter be re-
12 turned for further consideration, but the court may not
13 modify the decision. The court may not suspend the effec-
14 tiveness of the adjustment factors, or otherwise prevent
15 them from taking effect until final disposition of the suit
16 by the court. No court shall have jurisdiction to review
17 a decision made by the Commission under this section ex-
18 cept as provided in this subsection.

19 **“§ 3724. Action of the Directors**

20 “(a) IN GENERAL.—The Directors, with the written
21 concurrence of a majority of all of the Directors then hold-
22 ing office, shall establish rates for products in the non-
23 competitive category of mail in accordance with the re-
24 quirements of this subchapter and the policies of this title.

25 “(b) PROCEDURES.—

1 “(1) IN GENERAL.—Rates under this section
2 shall be established in writing, complete with a
3 statement of explanation and justification.

4 “(2) PUBLICATION.—The Directors shall cause
5 each such decision and statement to be published in
6 the Federal Register at least 45 days before the rate
7 or rates to which they pertain take effect.

8 “(c) LIMITATIONS ON AUTHORITY.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2)—

11 “(A) FREQUENCY.—Ratemaking authority
12 under this section may not be exercised more
13 than once for purposes of any year.

14 “(B) UNIFORM EFFECTIVE DATE.—All
15 changes in rates pursuant to this section shall
16 take effect beginning on the same date.

17 “(2) EXCEPTION FOR CHANGE DUE TO EXI-
18 GENT CIRCUMSTANCES.—

19 “(A) IN GENERAL.—If the maximum rate
20 allowable for a product in a year changes pur-
21 suant to a request granted under section
22 3723(f), then, in the event that ratemaking au-
23 thority under this section was previously exer-
24 cised with respect to such product for such
25 year, such rate may be modified, not more than

1 once more in such year, based on the change in
2 the maximum rate allowable.

3 “(B) UNIFORM EFFECTIVE DATE.—All
4 changes in rates pursuant to this paragraph
5 shall, to the extent based on the same change
6 in the maximum rate allowable, take effect be-
7 ginning on the same date.

8 “(d) EXCEPTION TO REQUIREMENT RELATING TO
9 UNIFORM APPLICABILITY OF EACH MAXIMUM.—

10 “(1) DEFINITIONS.—For purposes of this sub-
11 section—

12 “(A) SUBORDINATE UNIT.—The term ‘sub-
13 ordinate unit’, with respect to a product, means
14 a subclass or other similar subordinate unit of
15 such product, as described in subparagraph (A)
16 of section 3721(3).

17 “(B) FURTHER SUBORDINATE UNIT.—The
18 term ‘further subordinate unit’, with respect to
19 a subordinate unit, means a further subordinate
20 unit thereof, as described in subparagraph (B)
21 of section 3721(3).

22 “(2) APPLICABILITY.—This subsection applies
23 with respect to the second, third, and fourth baskets
24 of products.

25 “(3) RULE.—

1 “(A) IN GENERAL.—Notwithstanding the
2 uniformity requirement in section 3723(d), for
3 purposes of establishing rates for further subor-
4 dinate units of any particular subordinate unit
5 of a product, rates may be established at such
6 levels as the Directors consider appropriate,
7 subject to subparagraph (B).

8 “(B) REQUIREMENT.—The rates so estab-
9 lished may not exceed the maximum rates es-
10 tablished for such further subordinate units in
11 accordance with subparagraph (C).

12 “(C) ALTERNATIVE MAXIMUM RATES.—Al-
13 ternative maximum rates may be established
14 under this subparagraph by using adjustment
15 factors (other than those that would otherwise
16 apply absent this subsection) fixed at levels
17 which the Directors consider appropriate, so
18 long as the resulting average maximum rate,
19 for the further subordinate units comprising
20 such subordinate unit (determined separately
21 for each successive level, if there are 2 or more
22 levels of further subordinate units), remains
23 equal to the maximum rate that would other-
24 wise apply with respect to those further subor-
25 dinate units.

1 “(e) FINALITY OF DECISIONS.—Decisions of the
 2 Postal Service under this section shall be final and shall
 3 not be subject to administrative or judicial review.

4 “SUBCHAPTER III—RATES AND FEES FOR
 5 PRODUCTS IN THE COMPETITIVE CAT-
 6 EGORY OF MAIL

7 **“§ 3741. Definitions**

8 “For purposes of this subchapter—

9 “(1) YEAR, PRODUCT, RATE, ETC.—The terms
 10 ‘year’, ‘product’, ‘rate’, and ‘product in the non-
 11 competitive category of mail’ each has the meaning
 12 given such term by section 3721, unless the context
 13 otherwise requires.

14 “(2) PRODUCTS IN THE COMPETITIVE CAT-
 15 EGORY OF MAIL.—The term ‘products in the com-
 16 petitive category of mail’ means—

17 “(A) priority mail;

18 “(B) expedited mail;

19 “(C) mailgrams;

20 “(D) international mail;

21 “(E) parcel post;

22 “(F) special services; and

23 “(G) any product transferred to the com-
 24 petitive category of mail under section 3743;

1 except that such term does not include any product
2 then currently in the noncompetitive category of
3 mail.

4 “(3) RULE OF CONSTRUCTION.—

5 “(A) IN GENERAL.—Mail matter referred
6 to in paragraph (2) shall, for purposes of such
7 paragraph, be considered to have the meaning
8 given them under the mail classification sched-
9 ule (within the meaning of section 3623) as of
10 the effective date of this chapter.

11 “(B) UPDATES.—The Board of Directors
12 shall, whenever any relevant change occurs
13 (pursuant to a reclassification under chapter
14 36, a transfer of a product from the non-
15 competitive category of mail under section
16 3743, or the conversion of an experimental
17 product under subchapter IV to a permanent
18 one), prescribe a new list of products under
19 subparagraphs (A) through (G) of paragraph
20 (2). The revised list shall indicate how and
21 when any previous list is superseded.

22 **“§ 3742. Action of the Directors**

23 “(a) IN GENERAL.—The Directors, with the written
24 concurrence of a majority of all of the Directors then hold-

1 ing office, shall establish rates for products in the competi-
 2 tive category of mail.

3 “(b) REQUIREMENTS.—Rates under this section shall
 4 be established in accordance with the policies of this title
 5 and the requirement that each product in the competitive
 6 category of mail bear the direct and indirect postal costs
 7 attributable to such product plus a reasonable contribution
 8 to all other costs of the Postal Service.

9 “(c) PROCEDURES.—Subsections (b), (c)(1), and (e)
 10 of section 3724 shall apply with respect to rates and deci-
 11 sions under this section.

12 **“§ 3743. Transfers of products from the noncompeti-**
 13 **tive category of mail**

14 “(a) IN GENERAL.—The Postal Service or users of
 15 the mails may from time to time request the Postal Rate
 16 Commission to submit, or the Commission may submit to
 17 the Directors on its own initiative, a recommended deci-
 18 sion on transferring one or more products in the non-
 19 competitive category of mail to the competitive category
 20 of mail.

21 “(b) CRITERIA.—A recommended decision under this
 22 section shall be made in accordance with the policies of
 23 this title and taking into consideration the availability and
 24 nature of enterprises in the private sector engaged in the
 25 delivery of the product involved.

1 “(c) PROCEDURES.—If the Commission receives a re-
2 quest under subsection (a) or decides to act on its own
3 initiative, the Commission shall, after proceedings in con-
4 formity with section 3624, issue a recommended decision
5 which shall be acted upon in accordance with the provi-
6 sions of section 3625 and subject to review in accordance
7 with the provisions of section 3628.

8 **“§ 3744. Application of antitrust laws**

9 “(a) APPLICABILITY OF THE ANTITRUST LAWS.—
10 The antitrust laws shall apply with respect to the Postal
11 Service to the extent that the Postal Service engages in
12 conduct with respect to—

13 “(1) any product in the competitive category of
14 mail; and

15 “(2) any product offered pursuant to a market
16 test under subchapter IV.

17 “(b) DEFINITION.—For purposes of subsection (a),
18 the term ‘antitrust laws’ has the meaning given such term
19 in subsection (a) of the first section of the Clayton Act
20 (15 U.S.C. 12(a)), but includes section 5 of the Federal
21 Trade Commission Act (15 U.S.C. 45) to the extent that
22 such section 5 applies to unfair methods of competition.

23 “(c) EFFECTIVE DATE.—This section shall not apply
24 with respect to conduct occurring before the effective date
25 of this chapter.

1 “SUBCHAPTER IV—MARKET TESTS OF
2 EXPERIMENTAL PRODUCTS

3 **“§ 3761. Market tests**

4 “(a) IN GENERAL.—The Postal Service may conduct
5 market tests of experimental products. Subject to the pro-
6 visions of this section, the conducting of any such market
7 test by the Postal Service shall not be limited by any lack
8 of specific authority under this title to take the action con-
9 templated, or by any provision of this title or any rule
10 or regulation prescribed under this title which is inconsis-
11 tent with the action.

12 “(b) PROCEDURAL REQUIREMENTS.—Before con-
13 ducting a market test, the Postal Service shall—

14 “(1) develop a plan for such test which identi-
15 fies—

16 “(A) the purposes of the test (and how
17 they comport with the provisions of section
18 101);

19 “(B) the duration;

20 “(C) the anticipated costs for each year;

21 “(D) the anticipated revenues for each
22 year;

23 “(E) a specific description of any aspect of
24 the test for which there is a lack of specific au-
25 thority; and

1 “(F) a specific citation to any provision of
2 law, rule, or regulation which, if not waived
3 under this section, would prohibit the conduct-
4 ing of the test, or any part of the test as pro-
5 posed;

6 “(2) at least 60 days in advance of the date any
7 test proposed under this section is to take effect—

8 “(A) publish the plan in the Federal Reg-
9 ister;

10 “(B) submit such plan to each House of
11 Congress; and

12 “(C) provide notification of the proposed
13 test to officers and employees likely to be af-
14 fected by the test.

15 “(c) RESTRICTIONS.—No market test under this sec-
16 tion may provide for a waiver of—

17 “(1) any provision of section 410(b)–(d) (or any
18 law applicable to the Postal Service by virtue of any
19 such provision);

20 “(2) section 412 or any other provision of law
21 (not otherwise covered by paragraph (1)) providing
22 for the nondisclosure of names or addresses or any
23 other information or matter by the Postal Service;

24 “(3) the limitation on compensation under the
25 last sentence of section 1003(a);

1 “(4) any provision of chapter 10 (relating to
2 employment within the Postal Service);

3 “(5) any provision of chapter 12 or of any col-
4 lective-bargaining agreement under such chapter;

5 “(6) any provision of section 3623(d) (relating
6 to maintaining one or more classes of mail for the
7 transmission of letters sealed against inspection);

8 “(7) any provision of law—

9 “(A) providing for equal employment op-
10 portunity through affirmative action; or

11 “(B) providing any right or remedy avail-
12 able to any officer or employee or applicant for
13 employment in the Postal Service; or

14 “(8) any rule or regulation prescribed under
15 any provision of law referred to in any of the preced-
16 ing paragraphs of this subsection.

17 “(d) LIMITATIONS.—

18 “(1) DURATION.—Each market test under this
19 section shall terminate not later than 3 years after
20 such project takes effect, except that the project
21 may continue beyond the date on which it would oth-
22 erwise terminate, if proceedings under subsection (g)
23 are then pending with respect to the product in-
24 volved.

1 “(2) DOLLAR LIMITATION.—A market test
2 under this section may not be conducted if the an-
3 ticipated revenues attributable to such test would,
4 for any calendar year, exceed \$100,000,000.

5 “(e) EMPLOYEES WITHIN BARGAINING UNITS.—Em-
6 ployees within a unit with respect to which a labor organi-
7 zation is accorded exclusive recognition under chapter 12
8 shall not be included within any market test under this
9 section—

10 “(1) if the test would violate a collective-bar-
11 gaining agreement under such chapter between the
12 Postal Service and the labor organization, unless
13 there is another written agreement with respect to
14 the test between the Postal Service and the organi-
15 zation permitting the inclusion; or

16 “(2) if the test is not covered by such a collec-
17 tive-bargaining agreement, until there has been con-
18 sultation or negotiation, as appropriate, by the Post-
19 al Service with the labor organization.

20 “(f) OTHER EMPLOYEES.—Employees within any
21 unit with respect to which a labor organization has not
22 been accorded exclusive recognition under chapter 12 shall
23 not be included within any market test under this section
24 unless there has been consultation by the Postal Service
25 regarding the test with the employees in the unit.

1 “(g) CONVERSION TO PERMANENCE.—A request to
2 make an experimental product (as referred to in sub-
3 section (a)) permanent—

4 “(1) shall be made in accordance with the same
5 requirements as set forth in section 3743(b);

6 “(2) shall be subject to the same procedures
7 (including review) as set forth in section 3743(c),
8 except as provided in subsection (h); and

9 “(3) may not be considered unless it is made by
10 the Postal Service.

11 “(h) TIME LIMITATION ON COMMISSION DELIBERA-
12 TIONS.—For purposes of applying section 3624 (pursuant
13 to subsection (g)(2)) with respect to a request to make
14 an experimental product permanent—

15 “(1) section 3624(c) (as deemed to have re-
16 mained in effect under paragraph (2)) shall be ap-
17 plied with respect to such request in the same man-
18 ner as would have applied in the case of a request
19 made under section 3622 (as last in effect before
20 being repealed by section 1002); and

21 “(2) section 3624 (as last in effect before being
22 repealed by section 1002) shall be deemed to have
23 remained in effect, except that subsection (c) of such
24 section (as then in effect) shall be applied by sub-
25 stituting—

1 “(A) ‘6 months’ for ‘10 months’ in para-
2 graph (1) thereof; and

3 “(B) ‘6-month period’ for ‘10-month pe-
4 riod’ in paragraph (2) thereof.

5 “SUBCHAPTER V—REPORTING REQUIREMENTS
6 AND RELATED PROVISIONS

7 **“§ 3781. Definition**

8 “‘For purposes of this subchapter, the term ‘product’
9 has the meaning given such term by section 3721(3).

10 **“§ 3782. Reporting requirements**

11 “(a) IN GENERAL.—No later than 3 months after the
12 last day of each fiscal year, the Postal Service shall submit
13 sufficient information to the Postal Rate Commission to
14 demonstrate that the then current rates for products are
15 in compliance with all applicable requirements of this title.

16 “(b) AUDITS.—

17 “(1) IN GENERAL.—Before submitting any in-
18 formation under subsection (a), the Postal Service
19 shall have such information audited by an independ-
20 ent professional accounting organization (from out-
21 side of government), and such audit shall be submit-
22 ted along with the information to which it relates.

23 “(2) ACCESS TO PAPERS AND SUPPORTING MA-
24 TERIALS.—

1 “(A) IN GENERAL.—The Commission shall
 2 have access to the working papers and support-
 3 ing materials of an auditor in connection with
 4 any audit conducted by such auditor under this
 5 subsection.

6 “(B) CONFIDENTIALITY.—Any information
 7 described in paragraph (3) to which the Com-
 8 mission gains access under subparagraph (A)
 9 shall be subject to section 3604(g)(2) in the
 10 same way as if the Commission had received
 11 notification with respect to such information
 12 under section 3604(g)(1).

13 “(3) IDENTIFICATION OF PROTECTED INFORMA-
 14 TION.—

15 “(A) IN GENERAL.—The Postal Service
 16 shall, in accordance with regulations which it
 17 shall prescribe, ensure that—

18 “(i) any protected information shall,
 19 before being furnished to an auditor under
 20 this section, be appropriately identified (in-
 21 cluding, to the extent practicable, by being
 22 appropriately stamped, labelled, tagged, or
 23 otherwise physically marked); and

24 “(ii) appropriate measures are taken
 25 (such as the inclusion of appropriate terms

1 in any contract or other agreement with
 2 the auditor) to safeguard the security and
 3 confidentiality of protected information.

4 “(B) PROTECTED INFORMATION DE-
 5 FINED.—For purposes of this paragraph, the
 6 term ‘protected information’ means any infor-
 7 mation which, in the judgment of the Postal
 8 Service, is information of a type which is de-
 9 scribed in section 410(c) of this title, or exempt
 10 from public disclosure under section 552(b) of
 11 title 5.

12 “(c) ADDITIONAL REQUIREMENTS.—The Postal
 13 Service shall submit to the Commission, at the time of
 14 making its submissions under subsections (a) and (b)—

15 “(1) a copy of the then most recent comprehen-
 16 sive statement under section 2401(b);

17 “(2) a copy of the then most recent perform-
 18 ance plan and program performance reports required
 19 under sections 2803 and 2804, respectively; and

20 “(3) for the most recently completed fiscal year,
 21 with respect to each product in the competitive cat-
 22 egory of mail, each product in the noncompetitive
 23 category of mail, and each product under subchapter
 24 IV—

1 “(A) market information, including mail
2 volumes;

3 “(B) postal financial information, includ-
4 ing costs to the Postal Service and revenues;

5 “(C) measures of the speed and reliability
6 of postal service, including—

7 “(i) the service standard applicable to
8 each product;

9 “(ii) the actual level of service (de-
10 scribed in terms of speed of delivery and
11 reliability) provided; and

12 “(iii) the degree of customer satisfac-
13 tion with the service provided; and

14 “(D) any other information that the Com-
15 mission and the Postal Service mutually agree
16 upon.

17 “(d) REGULATIONS.—The Commission shall pre-
18 scribe regulations specifying the form and detail of the in-
19 formation required under this section, consistent with oth-
20 erwise applicable provisions of this title. Such regulations
21 shall give due consideration to avoiding unnecessary or un-
22 warranted administrative effort and expense on the part
23 of the Postal Service.

1 **“§ 3783. Use of profits**

2 “(a) DEFINITION OF PROFITS.—For purposes of this
3 section, the term ‘profits’, with respect to any fiscal year,
4 means the amount by which total income of the Postal
5 Service attributable to such year, exceeds total costs of
6 the Postal Service attributable to such year, as determined
7 by the Directors, in writing, in accordance with generally
8 accepted accounting principles.

9 “(b) DETERMINATION OF NONCOMPLIANCE.—Not
10 later than 90 days after receiving all the submissions re-
11 quired under section 3782 with respect to a fiscal year,
12 the Postal Rate Commission shall make a written deter-
13 mination as to—

14 “(1) whether any rates or fees were placed in
15 effect during such fiscal year which were not in com-
16 pliance with applicable provisions of this title;

17 “(2) whether any performance goals, estab-
18 lished under section 2803 or 2804 for such fiscal
19 year, were not met; and

20 “(3) whether any service standards for such fis-
21 cal year were not met, based on the information
22 under section 3782(c)(3)(C).

23 “(c) IF NO NONCOMPLIANCE IS FOUND.—If the
24 Commission does not make a timely determination of non-
25 compliance under subsection (b), or if a timely determina-
26 tion is made under subsection (b) to the effect that no

1 instances of noncompliance occurred, up to 100 percent
2 of the profits (if any) from the preceding fiscal year may
3 be used by the Postal Service for the purposes described
4 in subsection (e).

5 “(d) IF ANY NONCOMPLIANCE IS FOUND.—If the
6 Commission makes a timely determination of noncompli-
7 ance under subsection (b)—

8 “(1) the Commission may order, based on the
9 seriousness of the noncompliance, that a specific
10 percentage of the previous fiscal year’s profits (if
11 any), not to exceed 50 percent, be set aside for the
12 purposes described in subsection (f); and

13 “(2) up to 100 percent of the remainder of the
14 previous fiscal year’s profits (if any) may be used by
15 the Postal Service for the purposes described in sub-
16 section (e).

17 “(e) BONUSES.—

18 “(1) IN GENERAL.—The Postal Service shall es-
19 tablish a program under which cash bonuses may be
20 paid to officers and employees of the Postal Service
21 out of any profits which are available for that pur-
22 pose.

23 “(2) REQUIREMENTS.—Under the program—

1 “(A) bonuses may be paid to officers and
2 employees of the Postal Service under criteria
3 which shall be fair and equitable;

4 “(B) the sole source of funding shall be
5 any profits from any fiscal year, subject to the
6 application of subsection (d)(1) with respect to
7 such fiscal year; and

8 “(C) subject to subsection (h), bonuses
9 shall not be precluded by the limitation on com-
10 pensation under the last sentence of section
11 1003(a).

12 “(3) DISCRETIONARY NATURE OF PROGRAM.—
13 Nothing in this section shall be considered to create
14 any entitlement to receive bonuses or to require that
15 any portion of the profits from any fiscal year be
16 used for bonuses in excess of whatever amount the
17 Postal Service considers appropriate (if any).

18 “(4) CONSIDERATIONS RELATING TO THE POR-
19 TION OF PROFITS TO BE AVAILABLE FOR BO-
20 NUSES.—In any decision relating to what portion of
21 the available profits from any fiscal year shall be
22 available or used for purposes of the payment of bo-
23 nuses under this subsection, there shall be taken
24 into consideration—

1 “(A) the duty on the part of the Postal
2 Service to provide efficient and economical post-
3 al services in accordance with the requirements
4 of section 101, section 403, and this chapter;
5 and

6 “(B) what portion of those profits (if any)
7 should be used—

8 “(i) to retire debts or other obliga-
9 tions of the Postal Service;

10 “(ii) to limit future increases in postal
11 rates or fees for products in the non-
12 competitive category of mail; or

13 “(iii) to carry out any other purpose.

14 “(f) DEDICATION OF FUNDS TOWARD REDUCING
15 RATES AND FEES.—

16 “(1) IN GENERAL.—Any amounts ordered to be
17 set aside under subsection (d)(1) may not be used
18 for any purpose other than to defray increases in fu-
19 ture rates and fees for products in the noncompeti-
20 tive category of mail or to reduce the rates and fees
21 already in effect for such products.

22 “(2) COMPLIANCE.—Whenever an order under
23 subsection (d)(1) is issued, the Postal Service shall
24 include in its next comprehensive statement under
25 section 2401(b) (and each subsequent statement

1 thereunder until the order has been fully complied
2 with)—

3 “(A) a statement of the measures which
4 have been or will be implemented in order to
5 comply with the order;

6 “(B) the amount of savings actually passed
7 on to mailers during the reporting period, as
8 compared to the estimated savings for such pe-
9 riod; and

10 “(C) what measures, if any, have been or
11 will be implemented in order to reconcile any
12 difference identified under subparagraph (B).

13 “(3) NONREDUNDANT INFORMATION.—Nothing
14 in paragraph (2) shall be considered to require that
15 the same information be reported if included in a
16 previous report under this subsection.

17 “(g) PROCEDURES.—The provisions of sections 556
18 and 557 of title 5 shall not apply to any review carried
19 out by the Commission under this section.

20 “(h) REPORTING REQUIREMENT.—Included in its
21 comprehensive statement under section 2401(b) for any
22 period shall be—

23 “(1) the name of each person receiving a bonus
24 during such period which would not have been allow-
25 able but for the provisions of subsection (e)(2)(C);

1 “(2) the amount of the bonus; and

2 “(3) the amount by which the limitation re-
3 ferred to in subsection (e)(2)(C) was exceeded.”.

4 (b) REPRESENTATION IN AN ANTITRUST ACTION.—

5 Section 409(d) of title 39, United States Code, is amended
6 by striking “(d) The” and inserting “(d)(1) Except in any
7 instance in which the Postal Service elects to employ attor-
8 neys under paragraph (2), the” and by adding at the end
9 the following:

10 “(2)(A) As used in this paragraph, the term ‘anti-
11 trust laws’ has the meaning given to it by section 3744(b).

12 “(B) The Postal Service may, in connection with any
13 litigation brought against the Postal Service under any of
14 the antitrust laws, employ attorneys by contract or other-
15 wise to conduct litigation on its behalf without regard to
16 any provision of paragraph (1).”.

17 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

18 (1) Section 410(c)(4) of title 39, United States
19 Code, is amended by inserting “or 37” after “36”.

20 (2) Section 409(a) of title 39, United States
21 Code, is amended by striking “section 3628” and in-
22 serting “section 3628 (or any provision of this title
23 incorporating such section by reference) or section
24 3723(g)”.

1 **SEC. 1002. TERMINATION OF RATEMAKING AUTHORITY**
2 **UNDER CHAPTER 36 AND RELATED MATTERS.**

3 (a) **AUTHORITY TO FIX RATES AND CLASSES.**—Sec-
4 tion 3621 of title 39, United States Code, is amended—

5 (1) in the first sentence by striking “this chap-
6 ter” and inserting “this chapter and chapter 37”;

7 (2) by repealing the last 2 sentences.

8 (b) **RATES AND FEES.**—

9 (1) **IN GENERAL.**—Section 3622 of title 39,
10 United States Code, is repealed.

11 (2) **CLERICAL AMENDMENT.**—The item relating
12 to section 3622 in the table of sections at the begin-
13 ning of chapter 36 of such title 39 is repealed.

14 (c) **RECOMMENDED DECISIONS OF COMMISSION.**—
15 Section 3624 of title 39, United States Code, is amend-
16 ed—

17 (1) in subsection (a) by striking “section 3622
18 or 3623” and inserting “section 3623”;

19 (2) by repealing subsection (c); and

20 (3) in subsection (d)—

21 (A) by striking “rate, fee, or”; and

22 (B) by striking “section 3622 or 3623, as
23 the case may be.” and inserting “section
24 3623.”.

25 (d) **ACTION OF THE GOVERNORS.**—Section 3625 of
26 title 39, United States Code, is amended—

1 (1) in the third sentence of subsection (d)—

2 (A) by striking “(1)”; and

3 (B) by striking “chapter, and (2)” and all
4 that follows through the period and inserting
5 “chapter and chapter 37, respectively.”; and

6 (2) by amending subsection (f) to read as fol-
7 lows:

8 “(f) Except as otherwise provided in this title, the
9 Board shall determine—

10 “(1) the date on which any changes in the mail
11 classification schedule (whether made under this
12 chapter or chapter 37) shall become effective; and

13 “(2) the date on which new rates and fees
14 under chapter 37 shall become effective.”.

15 (e) REDUCED-RATE CATEGORIES OF MAIL.—

16 (1) CONTINUED APPLICABILITY OF RELEVANT
17 PROVISIONS OF CHAPTER 36 FOR THE LIMITED PUR-
18 POSE OF COMPUTING ALTERNATIVE RATE LIMITA-
19 TIONS FOR NONCOMPETITIVE PRODUCTS.—Notwith-
20 standing any other provision of this Act (or any
21 amendment made by this Act), the rate of postage
22 established under subchapter II of chapter 37 of
23 title 39, United States Code, as amended by this
24 Act, for a class of mail or kind of mailer referred

to in section 3626(a)(1) of such title may not, at any time, exceed the lesser of—

(A) the maximum rate then otherwise allowable under chapter 37 (determined as if this subsection had not been enacted) for such class of mail or kind of mailer; or

(B) the rate determined under paragraph (2) for such class of mail or kind of mailer.

(2) DETERMINATION OF RATES WHICH WOULD THEN OTHERWISE APPLY UNDER CHAPTER 36.—

(A) IN GENERAL.—For purposes of paragraph (1)(B), the United States Postal Service shall determine, and subsequently revise whenever necessary in order to keep determinations under this paragraph current, the rate of postage which would then otherwise apply with respect to each class of mail or kind of mailer referred to in section 3626(a)(1) of such title 39.

(B) METHODOLOGY.—Subparagraph (A) shall be carried out—

(i) by applying the provisions of paragraphs (2) through (5) of section 3626(a) and of section 3642 of such title 39; and

(ii) by using the then most recent information available to the Postal Service

1 relating to costs attributable and institu-
 2 tional costs (within the meaning of the
 3 provisions referred to in clause (i)).

4 (3) LIMITATION UNDER THIS SUBSECTION TO
 5 BE USED INSTEAD OF (AND TO BE TREATED AS)
 6 THE LIMITATION UNDER SECTION 3722.—The maxi-
 7 mum rate determined for a product under this sub-
 8 section shall, for all purposes (except paragraph
 9 (1)(A)), be used instead of (and shall be treated as)
 10 the maximum rate allowable for such product under
 11 section 3722 of such title 39.

12 (4) STATEMENT OF LIMITED PURPOSE.—Sec-
 13 tion 3626(a) of such title 39 is amended by adding
 14 at the end the following:

15 “(6) Neither this subsection nor section 3642 shall
 16 have any force or effect, except for purposes of section
 17 1002(e) of the Postal Reform Act of 1996. Nothing in the
 18 preceding sentence shall be considered to affect any base-
 19 line rate established pursuant to section 3701.”.

20 (5) REGULATIONS.—The United States Postal
 21 Service shall prescribe such regulations as may be
 22 necessary to carry out the provisions of sections
 23 3626 (including subsections (b) through (n) thereof)
 24 and 3642 of such title 39 (as amended by this Act)
 25 in a manner consistent with chapter 37 of such title

1 39 (as amended by this Act) and with the purposes
2 of this Act.

3 (f) OTHER TEMPORARY RATES.—

4 (1) IN GENERAL.—Section 3641 of title 39,
5 United States Code, is amended—

6 (A) by repealing subsections (a) through
7 (d); and

8 (B) in subsection (f) by striking “in rates
9 of postage, and fees for postal services, or”.

10 (2) CLERICAL AMENDMENTS.—

11 (A)(i) The heading for section 3641 of
12 such title 39 is amended to read as follows:

13 **“§ 3641. Temporary changes in classes”.**

14 (ii) The item relating to section 3641 in
15 the table of sections at the beginning of chapter
16 36 of such title 39 is amended to read as fol-
17 lows:

“3641. Temporary changes in classes.”.

18 (B)(i) The heading for subchapter III of
19 chapter 36 of such title 39 is amended to read
20 as follows:

21 **“SUBCHAPTER II—TEMPORARY CLASSES”.**

22 (ii) The analysis for chapter 36 of such
23 title 39 is amended by striking the item relating
24 to subchapter II and inserting the following:

1 “SUBCHAPTER II—TEMPORARY CLASSES”.

2 (g) RATE AND SERVICE COMPLAINTS.—Section 3662
3 of title 39, United States Code, is amended to read as
4 follows:

5 **“§ 3662. Rate and service complaints**

6 “(a) Interested parties who believe the Postal Service
7 is charging rates which do not conform to the policies set
8 out in this title or who believe that they are not receiving
9 postal service in accordance with the policies of this title
10 may lodge a complaint with the Postal Rate Commission
11 in such form and in such manner as it may prescribe. The
12 Commission may in its discretion hold hearings on such
13 complaint.

14 “(b)(1) If the Commission, in a classification matter
15 covered by subchapter II, determines the complaint to be
16 justified, it shall, after proceedings in conformity with sec-
17 tion 3624, issue a recommended decision which shall be
18 acted upon in accordance with the provisions of section
19 3625 and subject to review in accordance with the provi-
20 sions of section 3628.

21 “(2) If a violation of a limitation under section 3722
22 or 3724(d) (relating to the maximum rate allowable for
23 products in the noncompetitive category of mail) or section
24 3742(b) (relating to requirements applicable with respect
25 to rates established for products in the competitive cat-

1 egory of mail) is involved, it may issue an appropriate
2 order under section 3783.

3 “(3) If a matter other than a matter covered by para-
4 graph (1) or (2) is involved, and the Commission after
5 a hearing finds the complaint to be justified, it shall
6 render a public report thereon to the Postal Service which
7 shall take such action as it deems appropriate.”.

8 (h) LIMITATIONS.—Section 3684 of title 39, United
9 States Code, is amended by striking “or 34” and inserting
10 “34, or 37”.

11 (i) MAIL CLASSIFICATION.—Section 3623 of title 39,
12 United States Code, is amended—

13 (1) by repealing subsection (a);

14 (2) in subsection (b) by striking “Following the
15 establishment of the mail classification schedule re-
16 quested under subsection (a) of this section, the”
17 and inserting “The”;

18 (3) in subsection (c) (in the matter before para-
19 graph (1)) by striking “this title” and inserting
20 “this title, subsection (e),”; and

21 (4) by adding at the end the following:

22 “(e)(1) Any change under this subchapter in the mail
23 classification system shall be in accordance with the re-
24 quirements of paragraph (2).

1 “(2) The requirements of this paragraph are as fol-
2 lows:

3 “(A) A product may not be reclassified from
4 the competitive to the noncompetitive category of
5 mail.

6 “(B) The reclassification of a product from one
7 basket to another basket of the noncompetitive cat-
8 egory of mail shall not be effective during a rate-
9 making cycle unless notice of the final decision on
10 the reclassification is given to the Postal Rate Com-
11 mission before the start of proceedings under section
12 3723(b) in connection with such cycle.

13 “(C)(i) A new product may not be made avail-
14 able to the public before it has been placed in—

15 “(I) either the competitive or the non-
16 competitive category of mail; and

17 “(II) if placed in the noncompetitive cat-
18 egory of mail, the appropriate basket thereof.

19 “(ii) Any decision as to whether a new product
20 should be placed in the competitive or the non-
21 competitive category of mail shall be made in accord-
22 ance with the requirements set forth in section
23 3743(b). Such requirements shall be specifically ad-
24 dressed in any statement required under section
25 3624(d) with respect to such decision.

1 “(3) For purposes of this subsection—

2 “(A) the term ‘product’ has the meaning given
3 such term by section 3721(3);

4 “(B) the term ‘noncompetitive category of mail’
5 refers to the category of mail under subchapter II of
6 chapter 37;

7 “(C) the term ‘competitive category of mail’ re-
8 fers to the category of mail under subchapter III of
9 chapter 37;

10 “(D) the term ‘basket’ refers to a basket under
11 paragraph (3), (4), (5), or (6) of section 3723(a);

12 “(E) the term ‘ratemaking cycle’ has the mean-
13 ing given such term by section 3723(a)(1); and

14 “(F) the term ‘new product’ means a product
15 which, as of the effective date of this subsection, is
16 not available to the public through the Postal Serv-
17 ice.”.

18 (j) EFFECTIVE DATE.—This section and the amend-
19 ments made by this section shall become effective on the
20 effective date of the baseline rates and fees established
21 pursuant to section 3701 of title 39, United States Code,
22 as amended by section 1001.

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